

Message

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**From:** Thomas, Latosha [Thomas.Latosha@epa.gov]  
**Sent:** 1/16/2018 11:35:12 PM  
**To:** Bennett, Tate [Bennett.Tate@epa.gov]  
**CC:** Grantham, Nancy [Grantham.Nancy@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]  
**Subject:** Re: Outreach Calls: Animal Waste

Thanks. Nancy and I talked on the phone as I was hitting send. I plan to get in early tomorrow to deal with this immediately.

Latosha Thomas  
U.S. Environmental Protection Agency  
OLEM/OEM/RMD  
(202) 564-2621(desk)  
(202) 568-0851 (cell)  
[thomas.latosha@epa.gov](mailto:thomas.latosha@epa.gov)

On Jan 16, 2018, at 6:27 PM, Bennett, Tate <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)> wrote:

Disregard my last email as it sounds like this is doable. Would prefer Nancy's times she highlighted, however.

On Jan 16, 2018, at 5:49 PM, Thomas, Latosha <[Thomas.Latosha@epa.gov](mailto:Thomas.Latosha@epa.gov)> wrote:

Hi everyone,

As you know, we are hosting calls for our stakeholders that will be impacted by the new reporting requirements related to animal waste. Based on my discussions with many of you earlier, I wanted to make sure that I've captured everything in the outline below. In addition, let me know if the language that will be sent with the call invites is ok. Thanks!

### **Animal Waste Outreach Calls**

**Overview:** EPA will host two (2) calls to notify stakeholders of the new requirements related to animal waste. The 1<sup>st</sup> call will include livestock trade associations + industry + state, local, tribal officials. The 2<sup>nd</sup> call will include actual members of the associations/organizations.

### **1st Call**

**When:** Thursday (1/18) @10AM ET

**Hosts:** Patty Gioffre/Kim Jennings (OEM/RID)

### **Key Messages:**

- <!--[if !supportLists]--><!--[endif]-->Due to a recent court decision, farmers (including ranchers, livestock and/or animal operators) will soon be required to begin reporting emissions of hazardous substances from

animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).

- <!--[if !supportLists]--><!--[endif]-->EPA has issued guidance that is available online to assist farmers in estimating their air releases and reporting under CERCLA for air releases of hazardous substances from animal waste at farms (EPA’s website also contains EPA’s preliminary interpretation of EPCRA to exclude farms that use substances in “routine agricultural operations” from reporting under EPCRA section 304).
- <!--[if !supportLists]--><!--[endif]-->The Agency has provided outreach materials (PSA, social media, article, widget, etc.) that are available for your use and to help you get the word out about these new requirements.

**Participants:**

- <!--[if !supportLists]--><!--[endif]-->Livestock Trade Associations
  - <!--[if !supportLists]--><!--[endif]-->National Cattleman’s Beef Association
  - <!--[if !supportLists]--><!--[endif]-->Arizona Cattle Growers Association
  - <!--[if !supportLists]--><!--[endif]-->National Chicken Council
  - <!--[if !supportLists]--><!--[endif]-->National Council of Farmer Cooperatives
  - <!--[if !supportLists]--><!--[endif]-->National Turkey Federation
  - <!--[if !supportLists]--><!--[endif]-->US Poultry and Egg Association
  - <!--[if !supportLists]--><!--[endif]-->United Egg Producers
  - <!--[if !supportLists]--><!--[endif]-->National Pork Producers Council
  - <!--[if !supportLists]--><!--[endif]-->National Pork Board
  - <!--[if !supportLists]--><!--[endif]-->National Milk Producers Federation
  - <!--[if !supportLists]--><!--[endif]-->Mid-Atlantic Dairy Association
  - <!--[if !supportLists]--><!--[endif]-->Nisei Farmers League
  - <!--[if !supportLists]--><!--[endif]-->Innovation Center for US Dairy
  - <!--[if !supportLists]--><!--[endif]-->Dairy Farmers of America
  - <!--[if !supportLists]--><!--[endif]-->Dairy Management Inc.
  - <!--[if !supportLists]--><!--[endif]-->Livestock and Poultry Environmental Learning Center (extension agents at land grant universities)
  - <!--[if !supportLists]--><!--[endif]-->Cornell PRO-DAIRY Program
- <!--[if !supportLists]--><!--[endif]-->Industry
  - <!--[if !supportLists]--><!--[endif]-->Seaboard Farms
  - <!--[if !supportLists]--><!--[endif]-->Tyson Foods

- <!--[if !supportLists]--><!--[endif]-->National Association of Sara Title III Officials (NASTTPO), State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs)
- <!--[if !supportLists]--><!--[endif]-->National Association of State Departments of Agriculture
- <!--[if !supportLists]--><!--[endif]-->National Association of Clean Air Agencies – Agriculture Committee
- <!--[if !supportLists]--><!--[endif]-->American Farm Bureau Federation
- <!--[if !supportLists]--><!--[endif]-->Agricultural Retailers Association (ARA)
- <!--[if !supportLists]--><!--[endif]-->The Fertilizer Institute (TFI)
- <!--[if !supportLists]--><!--[endif]-->National Farmers Union
- <!--[if !supportLists]--><!--[endif]-->National Association of Conservation Districts (NACD)
- <!--[if !supportLists]--><!--[endif]-->Enviros/NGOs
  - <!--[if !supportLists]--><!--[endif]-->Sierra Club

## **2nd Call**

**When:** Thursday (1/18) @2PM ET

**Hosts:** Tate Bennett (Patty Gioffre/Kim Jennings will participate for support)

### **Key Messages:**

- <!--[if !supportLists]--><!--[endif]-->Due to a recent court decision, farmers (including ranchers, livestock and/or animal operators) will soon be required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).
- <!--[if !supportLists]--><!--[endif]-->EPA has issued guidance that is available online to assist farmers in estimating their air releases and reporting under CERCLA for air releases of hazardous substances from animal waste at farms (EPA’s website also contains EPA’s preliminary interpretation of EPCRA to exclude farms that use substances in “routine agricultural operations” from reporting under EPCRA section 304).
- <!--[if !supportLists]--><!--[endif]-->The Agency has provided outreach materials (PSA, social media, article, widget, etc.) that are available for your use and to help you get the word out about these new requirements.

**Participants:** Actual members of the above associations/organizations/groups

**Language to be sent with invites (+ attached comms materials)**

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of this call is to provide an overview and basic information for our stakeholders who are impacted by this new requirement.

#### **ACTIONS**

- <!--[if !supportLists]--><!--[endif]--> OEM will send out invitations to participants of the 1<sup>st</sup> call
- <!--[if !supportLists]--><!--[endif]--> OPE will send out invitations to participants of the 2<sup>nd</sup> call
- <!--[if !supportLists]--><!--[endif]--> Latosha (OEM) will work with Cathy Milbourn (OPE) re: logistics for 2<sup>nd</sup> call\*

\*OEM should be able to handle the quantity of participants related to the 1<sup>st</sup> call since there will be less people.

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(202) 568-0851 (cell)  
[ltomas.latosha@epa.gov](mailto:ltomas.latosha@epa.gov)



Message

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**From:** Miller, Sara [smille1@michfb.com]  
**Sent:** 11/15/2017 11:09:11 PM  
**To:** Bennett, Tate [Bennett.Tate@epa.gov]  
**CC:** Schmucker, Debra [dschmuc@michfb.com]  
**Subject:** RE: Invitation for Administrator Pruitt

Tomorrow morning is a bit sticky, does 1:30pm work?

**Sara Miller**

**Event Specialist**

**Michigan Farm Bureau**

Center for Education & Leadership Development and Michigan Foundation for Agriculture

7373 W. Saginaw Hwy. | Lansing, MI 48917

P: 517.679.4781 | E: [smille1@michfb.com](mailto:smille1@michfb.com)

W: [www.michfb.com](http://www.michfb.com)

**From:** Bennett, Tate [mailto:Bennett.Tate@epa.gov]  
**Sent:** Wednesday, November 15, 2017 6:08 PM  
**To:** Miller, Sara <smille1@michfb.com>  
**Cc:** Schmucker, Debra <dschmuc@michfb.com>  
**Subject:** RE: Invitation for Administrator Pruitt

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You bet. Tomorrow morning work ok?

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**From:** Miller, Sara [mailto:smille1@michfb.com]  
**Sent:** Wednesday, November 15, 2017 6:05 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Cc:** Schmucker, Debra <dschmuc@michfb.com>  
**Subject:** RE: Invitation for Administrator Pruitt

Good evening, Tate,

Wanted to check back in on schedule. We are trying to wrap up scripting and logistics for our sessions, and have quite a few moving pieces regarding Administrator Pruitt's arrival. Can we set up a call this week to review?

Thanks!

**Sara Miller**

**Event Specialist**

**Michigan Farm Bureau**

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W: [www.michfb.com](http://www.michfb.com)

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**From:** Bennett, Tate [mailto:Bennett.Tate@epa.gov]  
**Sent:** Tuesday, November 07, 2017 3:21 PM  
**To:** Miller, Sara <smille1@michfb.com>  
**Cc:** Campbell, Laura <lcampbe@michfb.com>; Kran, John <jkran@michfb.com>; Schmucker, Debra

<dschmuc@michfb.com>

**Subject:** Re: Invitation for Administrator Pruitt

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Hey! We are a yes. Please do not post online. I'll follow up separately soon.

On Nov 7, 2017, at 2:27 PM, Miller, Sara <smille1@michfb.com> wrote:

Hi Tate,

Just wanted to check in and see if there were any updates for us.

Thanks,

**Sara Miller**

**Event Specialist**

**Michigan Farm Bureau**

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W: [www.michfb.com](http://www.michfb.com)

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**From:** Bennett, Tate [<mailto:Bennett.Tate@epa.gov>]

**Sent:** Thursday, November 02, 2017 11:24 AM

**To:** Miller, Sara <[smille1@michfb.com](mailto:smille1@michfb.com)>

**Cc:** Campbell, Laura <[lcampbe@michfb.com](mailto:lcampbe@michfb.com)>; Kran, John <[jkran@michfb.com](mailto:jkran@michfb.com)>

**Subject:** Re: Invitation for Administrator Pruitt

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Standby- should know about a formal rsvp later today/ before the weekend.

On Nov 2, 2017, at 11:15 AM, Miller, Sara <[smille1@michfb.com](mailto:smille1@michfb.com)> wrote:

Thanks, team! Looking forward to the Administrator joining us! Tate, while you are working on the details, would you mind sending me his bio so we can get to work on our scripting?

Thanks so much!

**Sara Miller**

**Event Specialist**

**Michigan Farm Bureau**

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**From:** Campbell, Laura

**Sent:** Wednesday, November 01, 2017 5:39 PM

**To:** Bennett, Tate <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>

**Cc:** Miller, Sara <[smille1@michfb.com](mailto:smille1@michfb.com)>; Kran, John <[jkran@michfb.com](mailto:jkran@michfb.com)>  
**Subject:** RE: Invitation for Administrator Pruitt

Hi Sara, Tate called me back and said she's going to run the proposal by the Administrator and figure out when in the morning they would arrive, but she said for now to not plan for the morning round table and she would let us know when he would want to do the controlled press opportunity and have some member conversation – likely after he speaks at delegate session.

I told her to contact you as the lead for all the details on that stuff, and that we had a press room and a variety of other closed spaces where we could control entry for whatever he wanted to do. We might want to touch base with Carl and put together a short list of members who would speak with him, since he said he was willing to do some one-on-one with members in addition to the press access.

She did ask specifically that we:

- 1) Not advertise his presence in advance of the meeting. I told her we could announce him as a special surprise guest during President's Lunch, and invite the non-delegates to "pack the house" in the observation areas to see him, and that we could add it to the event app on the day of his arrival.
- 2) She also asked for no press during his remarks on delegate floor, which I told her I thought we could do, especially since he's willing to do a (limited) press thing separate from his time before the members.

Tate will call or email you for more details, but please let me know if there's anything else you need from me to help with this. Thanks!

Laura A. Campbell  
Manager, Ag Ecology Department  
Michigan Farm Bureau  
Office: 517-679-5332 Cellular Phone / Ex. 6  
Email: [lcampbe@michfb.com](mailto:lcampbe@michfb.com)

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**From:** Campbell, Laura  
**Sent:** Wednesday, November 01, 2017 3:26 PM  
**To:** 'Bennett, Tate' <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>  
**Cc:** Miller, Sara <[smille1@michfb.com](mailto:smille1@michfb.com)>; Kran, John <[jkran@michfb.com](mailto:jkran@michfb.com)>  
**Subject:** RE: Invitation for Administrator Pruitt

Hi Tate, your voicemail box is full so I'm sending this by email. We got the word back from President Bednarski on scheduling Administrator Pruitt's time for the Michigan Farm Bureau members and want to double check some logistics with you:

- We were thinking a short presentation (about 10 minutes) at the beginning of our first delegate session Tuesday afternoon November 28, which starts at 1:15 pm. We'll need to factor in a few minutes of introductions and instructions before the Administrator starts.
- Since the delegate stage isn't really conducive to a conversational Q&A with members, would the Administrator also want to have a smaller roundtable that morning with some farmers President Bednarski would select? Ideally we could set that up sometime before 11:30 am.
- Would the Administrator want to attend the President's Lunch? He could attend the lunch (which runs from 11:30 to 1:00) and/or if he is interested in doing

some press we could set up a controlled space for select press during that time before he goes in to speak with the members.

- What security needs will the Administrator have while he is there?

I am going to be in Detroit for a conference tomorrow and Friday, so if you don't get this message before then, please feel free to work out any arrangements you need with Sara Miller. If either of you have questions during that time though, please feel free to text me on my cell or email me.

Thanks!

Laura A. Campbell  
Manager, Ag Ecology Department  
Michigan Farm Bureau  
Office: 517-679-5332 **Cellular Phone / Ex. 6**  
Email: [lcampbe@michfb.com](mailto:lcampbe@michfb.com)

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**From:** Bennett, Tate [<mailto:Bennett.Tate@epa.gov>]  
**Sent:** Wednesday, November 01, 2017 8:10 AM  
**To:** Campbell, Laura <[lcampbe@michfb.com](mailto:lcampbe@michfb.com)>  
**Cc:** Miller, Sara <[smille1@michfb.com](mailto:smille1@michfb.com)>  
**Subject:** Re: Invitation for Administrator Pruitt

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Thanks for the update!

On Oct 31, 2017, at 8:36 AM, Campbell, Laura <[lcampbe@michfb.com](mailto:lcampbe@michfb.com)> wrote:

Hi Tate, just checking back in with you – we're working on the schedule for our meeting to give you definites on the time for Administrator Pruitt's visit and are working to communicate plans with MFB President Bednarski, so we will share details as soon as we have them. I'm copying Sara Miller so you have each other's contact information, since Sara is leading logistics for the annual meeting.

Thank you so much for your patience!

Laura A. Campbell  
Manager, Ag Ecology Department  
Michigan Farm Bureau  
Office: 517-679-5332 **Cellular Phone / Ex. 6**  
Email: [lcampbe@michfb.com](mailto:lcampbe@michfb.com)

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**From:** Bennett, Tate [<mailto:Bennett.Tate@epa.gov>]  
**Sent:** Thursday, October 26, 2017 3:29 PM  
**To:** Campbell, Laura <[lcampbe@michfb.com](mailto:lcampbe@michfb.com)>  
**Subject:** RE: Invitation for Administrator Pruitt

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Hey Laura! Is there a good time to call you this evening? Wanted to follow up on this.

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**From:** Campbell, Laura [<mailto:lcampbe@michfb.com>]

**Sent:** Wednesday, August 23, 2017 10:48 AM

**To:** Bennett, Tate <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>

**Cc:** Kran, John <[jkran@michfb.com](mailto:jkran@michfb.com)>

**Subject:** Invitation for Administrator Pruitt

Hi Tate, my name is Laura Campbell from Michigan Farm Bureau. My colleagues at the American Farm Bureau Federation gave me your contact information in order to open some dialogue with Administrator Pruitt's office, and I'm hoping you can help me! Earlier this year, MFB President Carl Bednarski sent a letter to the Administrator regarding the status of our state's delegated authority to administer portions of the Clean Water Act (attached for your reference). President Bednarski has asked me to reach out to your office because he would like to invite the Administrator to visit Michigan. We are a key state in a number of issues that are a high priority for the Administrator:

- Waters of the US – withdrawing the 2015 rule and rewriting a new rule
- Wetlands issues – both related to WOTUS and to Michigan's recent challenges with approval for its delegated authority
- Addressing harmful algae blooms in the Western Lake Erie basin – efforts by agriculture and the need for support of voluntary conservation efforts rather than further regulation
- Additionally, we have significant concerns about another issue EPA has been dealing with in the Courts surrounding the requirement for many livestock farms to report air emission releases under CERCLA and EPCRA, and would like the Administrator to have an opportunity to speak with farmers about the topic.

There are a number of ways we might be able to arrange a visit. If the Administrator has time this fall, he would have an excellent opportunity to see these issues on the ground and speak with farmers dealing with them every day, as well as being able to visit a local Farm Bureau event. If his availability is instead open later in the year, our annual State Farm Bureau meeting hosts more than 1000 visitors and provides opportunities for both small round-table discussions and larger session or banquet speaking opportunities. Could you look at the Administrator's schedule to see if he might be available for a visit on any of the following dates?

- Sep. 12: farm visits and Kent County Farm Bureau Annual meeting
- Sep. 19: farm visits and Cass County Farm Bureau Annual meeting
- Sep. 21: farm visits and Ottawa County Farm Bureau Annual meeting
- Oct. 17: farm visits and St. Joseph County Farm Bureau Annual meeting

- Nov. 2: farm visits and Berrien County Farm Bureau Annual meeting
- Nov. 6: farm visits and Van Buren County Farm Bureau Annual meeting
- Nov. 28-30: MFB State Annual Meeting, Grand Rapids, MI – round table discussions and speaking to a large gathering of Farm Bureau members.

Thank you so much for your help! Please let me know your thoughts and if you have any questions. If the Administrator is interested in a visit to Michigan and none of those dates work for his schedule, please let me know and we would be more than happy to make other arrangements for his visit to be impactful.

Laura A. Campbell  
Manager, Ag Ecology Department  
Michigan Farm Bureau

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Email: [lcampbe@michfb.com](mailto:lcampbe@michfb.com)

Message

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**From:** Harwood, Jackie [Harwood.Jackie@epa.gov]  
**Sent:** 1/5/2018 9:18:36 PM  
**To:** Bennett, Tate [Bennett.Tate@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]  
**CC:** Breen, Barry [Breen.Barry@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]  
**Subject:** Review Requested - Senators' Letter on CERCLA/EPCRA Reporting  
**Attachments:** CMS\_18-000-2865\_CERCLA-EPCRA Air Emissions.pdf; AL 18 000 2865 Draft Reply 1-4-2018 v5 CLEAN 1-5-18.docx

Hi Tate and Jeff,

Attached is a letter the Administrator received from a bipartisan group of 11 Senators from states where poultry farming is a key part of the economy. In the letter they expressed concerns they have heard from farmers in their states on the new EPCRA/CERCLA reporting requirements and EPA's guidance, and asked us to respond to four questions. I've attached what OLEM has developed so far in response to this letter—Barry Breen and OEM asked that I pass it on to you to review before we move it forward.

We understand from OCIR that Troy Lyons would like the Agency to respond to the Senators' letter as soon as possible, due to the Administrator's testimony before the Senate Environment and Public Works Committee at the end of the month. We would be grateful if you could get back to us with your thoughts and/or edits.

Please let me know if you have any questions or concerns about this.

Thank you.

Jackie

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Jackie Harwood  
OLEM Congressional, State, and Local Liaison  
OCPA/Office of Land and Emergency Management (OLEM)  
U.S. Environmental Protection Agency  
(202) 564-7578  
*Follow OLEM on Twitter: @EPALand*

# United States Senate

WASHINGTON, DC 20510

December 21, 2017

The Honorable Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Pruitt:

We are a bipartisan group of Senators representing states where poultry farming is a key part of the economy. We are writing to share our constituents' serious questions and concerns about recent guidance promulgated by the Environmental Protection Agency (EPA). This guidance seeks to implement an April 2017 ruling by the U.S. Court of Appeals for the District of Columbia (*Waterkeeper Alliance v. EPA*) regarding the duty of livestock producers to report air emissions from their facilities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). In our view, this guidance is woefully inadequate and unclear; the EPA must take immediate action to clarify the types of farming operations to which it applies and to simplify the reporting procedure for any farms that must use it.

On April 11, 2017, the D.C. Circuit Court vacated a 2008 EPA rule that exempted most farms from certain release reporting requirements under two statutes, CERCLA and the Emergency Planning and Community Right to Know Act. Following two requests from the Administration, the D.C. Circuit Court extended the effective date of its decision to January 22, 2018.<sup>[1]</sup>

With five weeks remaining before the new effective date, farmers in our states are asking us urgent questions and raising serious concerns about the applicability of the new reporting requirements and the recently issued guidance. Some are unaware of the guidance that your agency has already prepared, while others are frankly stating that they find it to be unclear and unhelpful. Many have expressed frustration trying to navigate a new process with which they have previously had no experience. Quite simply, our constituents deserve better. The EPA must take additional efforts to communicate with farmers on this matter including how to identify, measure, or calculate emissions to determine whether an operation is subject to reporting requirements.

With these concerns in mind, we ask that you review and respond to the following questions, and that you brief our offices on the matter within the next three weeks:

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<sup>[1]</sup> <https://www.epa.gov/newsreleases/dc-circuit-court-grants-trump-epa-request-extend-deadline-farmers-report-emissions>





1. How are you working with farmers and others in the regulated community to help them identify whether they are subject to any new reporting requirements? In light of the D.C. Circuit's ruling more than eight months ago, do you expect to take any further administrative action to clarify the size or levels of emissions produced by farming operations that might be covered by these requirements? Do you anticipate further requesting a delay in the compliance deadline in order to do so?
2. What other federal, state, and local partners are you working with to assist farmers in understanding any new reporting obligations? How are you working with the United States Department of Agriculture in this regard?
3. As we mentioned, some of our constituents have expressed to us that the current reporting process and methodology is confusing. What steps are you taking to simplify your guidance and streamline the reporting process?
4. For farmers who may have limited access to the internet, what steps are you taking to assist these individuals in meeting any new reporting requirements? For those that do have such access, what steps are you taking to simplify reporting?


Our farmers care deeply about the environment and pride themselves on being good stewards of their land. We look forward to working with you to ensure that they have the resources they need to adequately understand and determine if they must comply with the EPA's requirements, and we await your prompt response to our information and briefing requests.

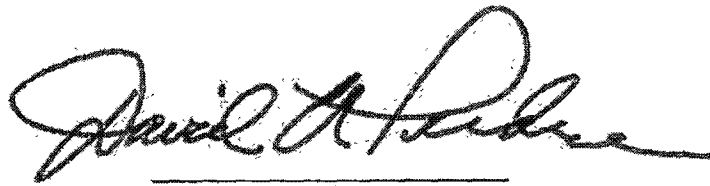
For any questions regarding this request, please contact Brian Papp with Senator Carper at 202-224-5042, Leah Rubin Shen with Senator Coons at 202-224-2441, or Jack Overstreet with Senator Isakson at 202-224-3643.

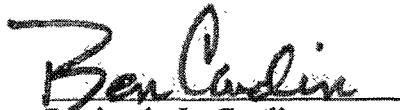
Sincerely,

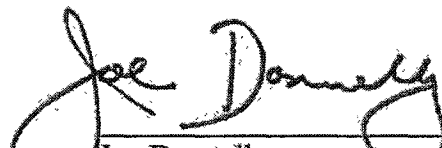
  
Thomas R. Carper  
U.S. Senator

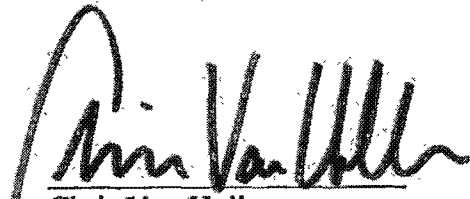
  
Christopher A. Coons  
U.S. Senator

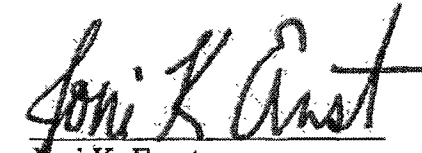
  
Johnny Isakson  
U.S. Senator


  
David A. Perdue  
U.S. Senator


  
Benjamin L. Cardin  
U.S. Senator

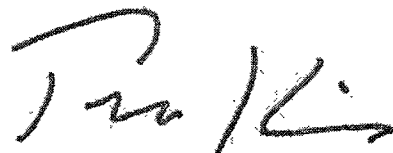
  
Joe Donnelly  
U.S. Senator

  
Chris Van Hollen  
U.S. Senator

  
Joni K. Ernst  
U.S. Senator

  
Mark R. Warner  
U.S. Senator

  
Roger F. Wicker  
U.S. Senator

  
Tim Kaine  
U.S. Senator

CC: The Honorable Sonny Perdue  
Secretary  
United States Department of Agriculture



Message

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**From:** Grantham, Nancy [Grantham.Nancy@epa.gov]  
**Sent:** 1/17/2018 11:54:53 PM  
**To:** Regional Public Affairs Directors [Regional\_Public\_Affairs\_Directors@epa.gov]  
**CC:** Richardson, RobinH [Richardson.RobinH@epa.gov]; Levine, Carolyn [Levine.Carolyn@epa.gov]; Janifer, Pamela [Janifer.Pamela@epa.gov]; Darwin, Veronica [darwin.veronica@epa.gov]; Colip, Matthew [colip.matthew@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Simon, Nigel [Simon.Nigel@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Nitsch, Chad [Nitsch.Chad@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]; Gordon, Stephen [gordon.stephen@epa.gov]  
**Subject:** RE: Outreach Calls: Animal Waste

All please note the following re: these calls. Please share with your regional ag advisors.

Thanks ng

OLEM stakeholder call is 1/18 at 11 a.m. - -we are double checking that there are sufficient lines for the regions (pads and ag advisors) to sit in (consolidated in one location) – will let folks know first thing tomorrow and send around the call in info.

ECOS/NASDA call is 1/18 at 2 p.m – RA/DRAs have been invited (pads and ag advisors welcome to join them).

OPEE stakeholder call has been moved to 1/19 at 1 p.m. – we are double checking that there are sufficient lines for the regions (pads and ag advisors) to sit in (consolidated in one location) – and will let folks know first thing tomorrow morning and send around the call in info.

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**  
**202-253-7056 (mobile)**

---

**From:** Grantham, Nancy  
**Sent:** Wednesday, January 17, 2018 8:32 AM  
**To:** Regional Public Affairs Directors <Regional\_Public\_Affairs\_Directors@epa.gov>  
**Cc:** Richardson, RobinH <Richardson.RobinH@epa.gov>; Levine, Carolyn <Levine.Carolyn@epa.gov>; Janifer, Pamela <Janifer.Pamela@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>  
**Subject:** FW: Outreach Calls: Animal Waste

All – FYI -- please see info below re: outreach calls re: animal waste issue – please share with your regional ag advisors.

Thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**  
**202-253-7056 (mobile)**

## Calls taking place on Thursday, 1/18:

11:00 a.m. est “leaderview” call with the trade groups – OLEM will lead (more info below) (Latosha Thomas is contact)

12:30 p.m. est “leaderview” call with OPEE stakeholders (100 lines) – OPEE will lead (more info below) (Cathy Milbourn is contact)

2:00 p.m. est “leaderview” call with NASDA and ECOS -- Office of Ag Advisor and OCIR will lead (Chad Nitsch is contact)

## **Animal Waste Outreach Calls**

**Overview:** EPA will host two (2) calls to notify stakeholders of the new requirements related to animal waste. The 1<sup>st</sup> call will include livestock trade associations + industry + state, local, tribal officials. The 2<sup>nd</sup> call will include actual members of the associations/organizations.

### **1st Call**

**When:** Thursday (1/18) @11:00AM ET

**Hosts:** Patty Gioffre/Kim Jennings (OEM/RID)

### **Key Messages:**

- Due to a recent court decision, farmers (including ranchers, livestock and/or animal operators) will soon be required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).
- EPA has issued guidance that is available online to assist farmers in estimating their air releases and reporting under CERCLA for air releases of hazardous substances from animal waste at farms (EPA’s website also contains EPA’s preliminary interpretation of EPCRA to exclude farms that use substances in “routine agricultural operations” from reporting under EPCRA section 304).
- The Agency has provided outreach materials (PSA, social media, article, widget, etc.) that are available for your use and to help you get the word out about these new requirements.

### **Participants:**

- Livestock Trade Associations
  - National Cattleman’s Beef Association
  - Arizona Cattle Growers Association
  - National Chicken Council
  - National Council of Farmer Cooperatives
  - National Turkey Federation
  - US Poultry and Egg Association
  - United Egg Producers

- National Pork Producers Council
- National Pork Board
- National Milk Producers Federation
- Mid-Atlantic Dairy Association
- Nisei Farmers League
- Innovation Center for US Dairy
- Dairy Farmers of America
- Dairy Management Inc.
- Livestock and Poultry Environmental Learning Center (extension agents at land grant universities)
- Cornell PRO-DAIRY Program
- Industry
  - Seaboard Farms
  - Tyson Foods
  - National Association of State Title III Officials (NASTTPO), State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs)
  - National Association of State Departments of Agriculture
  - National Association of Clean Air Agencies – Agriculture Committee
  - American Farm Bureau Federation
- Agricultural Retailers Association (ARA)
- The Fertilizer Institute (TFI)
- National Farmers Union
- National Association of Conservation Districts (NACD)
- Enviro/NGOs
  - Sierra Club

## **2nd Call**

**When:** Thursday (1/18) @ 12:30 PM ET

**Hosts:** Tate Bennett (Patty Gioffre/Kim Jennings will participate for support)

### **Key Messages:**

- Due to a recent court decision, farmers (including ranchers, livestock and/or animal operators) will soon be required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).
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- The Agency has provided outreach materials (PSA, social media, article, widget, etc.) that are available for your use and to help you get the word out about these new requirements.

**Participants:** Actual members of the above associations/organizations/groups

Message

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**From:** Thomas, Latosha [Thomas.Latosha@epa.gov]  
**Sent:** 1/16/2018 11:06:21 PM  
**To:** Grantham, Nancy [Grantham.Nancy@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Nitsch, Chad [Nitsch.Chad@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Levine, Carolyn [Levine.Carolyn@epa.gov]; Janifer, Pamela [Janifer.Pamela@epa.gov]  
**Subject:** RE: Outreach Calls: Animal Waste

Thanks.

Cathy – Let's discuss logistics at 9AM tomorrow if you're free.

---

**From:** Grantham, Nancy  
**Sent:** Tuesday, January 16, 2018 5:53 PM  
**To:** Thomas, Latosha <Thomas.Latosha@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Milbourn, Cathy <Milbourn.Cathy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Nitsch, Chad <Nitsch.Chad@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Levine, Carolyn <Levine.Carolyn@epa.gov>; Janifer, Pamela <Janifer.Pamela@epa.gov>  
**Cc:** Grantham, Nancy <Grantham.Nancy@epa.gov>  
**Subject:** RE: Outreach Calls: Animal Waste

Hi Latosha,

To summarize where we are in terms of calls for Thursday, 1/18 tomorrow:

11:00 a.m. est "leaderview" call with the trade groups – (# of lines?) OLEM will lead

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Tate has requested that we get the numbers and access codes for these calls asap so notification can be made asap tomorrow.

FYI – there will also be a 2 p.m. est call with NASDA tomorrow – Chad Nitsch is leading

Please let us know if you need any further information to make this happen.

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**US Environmental Protection Agency**  
**202-564-6879 (desk)**  
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**Sent:** Tuesday, January 16, 2018 5:49 PM  
**To:** Grantham, Nancy <Grantham.Nancy@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim

<Jennings.Kim@epa.gov>; Milbourn, Cathy <Milbourn.Cathy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>

**Subject:** Outreach Calls: Animal Waste

Hi everyone,

As you know, we are hosting calls for our stakeholders that will be impacted by the new reporting requirements related to animal waste. Based on my discussions with many of you earlier, I wanted to make sure that I've captured everything in the outline below. In addition, let me know if the language that will be sent with the call invites is ok. Thanks!

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**Overview:** EPA will host two (2) calls to notify stakeholders of the new requirements related to animal waste. The 1<sup>st</sup> call will include livestock trade associations + industry + state, local, tribal officials. The 2<sup>nd</sup> call will include actual members of the associations/organizations.

#### **1st Call**

**When:** Thursday (1/18) @10AM ET

**Hosts:** Patty Gioffre/Kim Jennings (OEM/RID)

#### **Key Messages:**

- Due to a recent court decision, farmers (including ranchers, livestock and/or animal operators) will soon be required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).
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  - National Pork Producers Council
  - National Pork Board
  - National Milk Producers Federation



- Mid-Atlantic Dairy Association
- Nisei Farmers League
- Innovation Center for US Dairy
- Dairy Farmers of America
- Dairy Management Inc.
- Livestock and Poultry Environmental Learning Center (extension agents at land grant universities)
- Cornell PRO-DAIRY Program
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  - National Association of State Title III Officials (NASTTPO), State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs)
  - National Association of State Departments of Agriculture
  - National Association of Clean Air Agencies – Agriculture Committee
  - American Farm Bureau Federation
- Agricultural Retailers Association (ARA)
- The Fertilizer Institute (TFI)
- National Farmers Union
- National Association of Conservation Districts (NACD)
- Enviro/NGOs
  - Sierra Club

## **2nd Call**

**When:** Thursday (1/18) @2PM ET

**Hosts:** Tate Bennett (Patty Gioffre/Kim Jennings will participate for support)

### **Key Messages:**

- Due to a recent court decision, farmers (including ranchers, livestock and/or animal operators) will soon be required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).
- EPA has issued guidance that is available online to assist farmers in estimating their air releases and reporting under CERCLA for air releases of hazardous substances from animal waste at farms (EPA's website also contains EPA's preliminary interpretation of EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304).
- The Agency has provided outreach materials (PSA, social media, article, widget, etc.) that are available for your use and to help you get the word out about these new requirements.

**Participants:** Actual members of the above associations/organizations/groups

### **Language to be sent with invites (+ attached comms materials)**

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental

Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of this call is to provide an overview and basic information for our stakeholders who are impacted by this new requirement.

### **ACTIONS**

- OEM will send out invitations to participants of the 1<sup>st</sup> call
- OPE will send out invitations to participants of the 2<sup>nd</sup> call
- Latosha (OEM) will work with Cathy Milbourn (OPE) re: logistics for 2<sup>nd</sup> call\*

\*OEM should be able to handle the quantity of participants related to the 1<sup>st</sup> call since there will be less people.

Latosha Thomas  
U.S. Environmental Protection Agency  
OLEM/OEM/RMD  
(202) 564-2621 (desk)  
(202) 568-0851 (cell)  
[thomas.latosha@epa.gov](mailto:thomas.latosha@epa.gov)

Message

---

**From:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Sent:** 1/17/2018 11:03:55 PM  
**To:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Subject:** UPDATE- EPA CONFERENCE CALL ON ANIMAL WASTE EMISSIONS - 1/19 @ 1 PM EASTERN

**Importance:** High

All-

In order to accommodate additional phone lines, we will be updating the call-in information, including the phone number. Please be on the lookout for an e-mail from me with updated call-in information for Friday's call either tonight or tomorrow.

This call will still take place at the scheduled time, Friday, 1/19 at 1 PM Eastern.

Thanks for your patience.

Tate

Elizabeth Tate Bennett  
Associate Administrator for Public Engagement & Environmental Education  
Office of the Administrator  
U.S. Environmental Protection Agency  
(202) 564-1460  
Bennett.Tate@epa.gov

---

**From:** Bennett, Tate  
**Sent:** Wednesday, January 17, 2018 2:29 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Subject:** EPA CONFERENCE CALL ON ANIMAL WASTE EMISSIONS - 1/19 @ 1 PM EASTERN  
**Importance:** High

All—

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period.

**As such, EPA invites you and your operation to learn more about the basis of this action via a phone briefing on Friday, 1/19, at 1 PM EASTERN TIME ZONE.**

**WHO:** EPA CONFERENCE CALL ON ANIMAL WASTE EMISSIONS  
**WHEN:** FRIDAY, JANUARY 19, 1PM EASTERN START TIME (feel free to dial in early around 12:50 PM Eastern). TBD

**HOW:** **Personal Phone / Ex. 6**

If you have any additional questions on this topic and for more information, please contact the Environmental Protection Agency via the information provided below:

- Visit [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) for guidance and access to the continuous release reporting forms
- Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- Regional Contacts: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Call with questions: 1-800-424-9346

Please let us know if you have additional questions and we look forward to your joining the call on Friday.

Elizabeth Tate Bennett  
Associate Administrator for Public Engagement & Environmental Education  
Office of the Administrator  
U.S. Environmental Protection Agency  
(202) 564-1460  
[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)

Message

---

**From:** Reaves, Doretta [Reaves.Doretta@epa.gov]  
**Sent:** 12/1/2017 8:42:08 PM  
**To:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Subject:** DC Circuit Court Grants Trump EPA Request to Extend Deadline for Farmers to Report Emissions

He was part of the group that came in and met with Stephen.

Thank you so much.

Doretta

---

**From:** Bennett, Tate  
**Sent:** Friday, December 1, 2017 3:38 PM  
**To:** Reaves, Doretta <Reaves.Doretta@epa.gov>  
**Subject:** Re: DC Circuit Court Grants Trump EPA Request to Extend Deadline for Farmers to Report Emissions

Hey! Did I meet with him?

Sent from my iPad

On Dec 1, 2017, at 2:17 PM, Reaves, Doretta <[Reaves.Doretta@epa.gov](mailto:Reaves.Doretta@epa.gov)> wrote:

Hi Tate,

I just received this note from Fred Krueger (National Religious Creation Care). Please read his note and we can meet on next week to talk about a response. Do you want me to send this to Stephen, Tom and Lee?

Thank you so much and enjoy your weekend.

Doretta

---

**From:** [fred@ecostewards.org](mailto:fred@ecostewards.org) [mailto:[fred@ecostewards.org](mailto:fred@ecostewards.org)]  
**Sent:** Friday, December 1, 2017 3:09 PM  
**To:** Reaves, Doretta <[Reaves.Doretta@epa.gov](mailto:Reaves.Doretta@epa.gov)>  
**Subject:** Re: DC Circuit Court Grants Trump EPA Request to Extend Deadline for Farmers to Report Emissions

Dear Doretta,

**Would this be an good time to submit a letter for a face-to-face meeting with Administrator Scott Pruitt? Our ideal date would be Monday, January 22nd, 2018.**

**What do you think? We would bring a more diverse group of religious leaders this time.**

Thank you for your insight on this question.

On 2017-11-28 16:30, Reaves, Doretta wrote:



U.S. ENVIRONMENTAL PROTECTION AGENCY

**NEWS RELEASE**

WWW.EPA.GOV/NEWSROOM

CONTACT: [press@epa.gov](mailto:press@epa.gov)

## **DC Circuit Court Grants Trump EPA Request to Extend Deadline for Farmers to Report Emissions from Livestock Operations**

**WASHINGTON** (November 28, 2017) — On Wednesday, November 22, 2017, in response to a request from the Trump Administration EPA, the DC Circuit Court of Appeals effectively extended the deadline for farmers to report air releases of hazardous substances from animal waste at livestock operations

until January 22, 2018. The decision postponed the effective date of the Court's April 2017 decision vacating an EPA rule that exempted these farms from certain statutory reporting obligations.

"EPA is committed to providing America's farmers and ranchers - people committed to conserving the land and the environment- the clarity needed in meeting their reporting obligations required by law," said **EPA Administrator Scott Pruitt**.

Under the Trump Administration, EPA sought this additional time in order to provide compliance assistance to farmers, update its guidance, and develop a more-streamlined reporting form. With the Court's decision, farmers are not required to report emissions from animal waste at these facilities until after the Court issues its mandate, expected no sooner than January 22, 2018.

**Background:**

On April 11, 2017, the DC Circuit Court vacated an EPA rule finalized on December 18, 2008, that exempted most farms from certain release reporting requirements in two statutes, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Emergency Planning and Community Right to Know Act (EPCRA).

In response to a request from the Trump Administration EPA, the DC Circuit Court extended the effective date of its decision to vacate the 2008 rule to November 15, 2017. In response to a second request from the current administration EPA, the DC Circuit Court further extended that date to January 22, 2018. As such, farmers now do not need to report emissions under CERCLA until January 22, 2018 at the earliest when the D.C. Circuit Court is expected to issue its mandate.

EPA has prepared guidance that includes links to resources that farmers can consider when calculating emissions for specific species of livestock.

To view EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>



Visit the EPA's  
Newsroom

If you would rather not receive future communications from Environmental Protection Agency, let us know by clicking [here](#).  
Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States



Message

---

**From:** Grantham, Nancy [Grantham.Nancy@epa.gov]  
**Sent:** 1/16/2018 10:52:32 PM  
**To:** Thomas, Latosha [Thomas.Latosha@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Nitsch, Chad [Nitsch.Chad@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Levine, Carolyn [Levine.Carolyn@epa.gov]; Janifer, Pamela [Janifer.Pamela@epa.gov]  
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**Sent:** Tuesday, January 16, 2018 5:49 PM  
**To:** Grantham, Nancy <Grantham.Nancy@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Milbourn, Cathy <Milbourn.Cathy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>  
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### **ACTIONS**

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[thomas.latosha@epa.gov](mailto:thomas.latosha@epa.gov)

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**Sent:** Wednesday, January 17, 2018 2:29 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Subject:** EPA CONFERENCE CALL ON ANIMAL WASTE EMISSIONS - 1/19 @ 1 PM EASTERN  
**Importance:** High

All—

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period.

**As such, EPA invites you and your operation to learn more about the basis of this action via a phone briefing on Friday, 1/19, at 1 PM EASTERN TIME ZONE.**

**WHO:** EPA CONFERENCE CALL ON ANIMAL WASTE EMISSIONS  
**WHEN:** FRIDAY, JANUARY 19, 1PM EASTERN START TIME (feel free to dial in early around 12:50 PM Eastern). TBD

**HOW:** Conference Number / Ex. 6

If you have any additional questions on this topic and for more information, please contact the Environmental Protection Agency via the information provided below:

- Visit [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) for guidance and access to the continuous release reporting forms
- Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- Regional Contacts: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Call with questions: 1-800-424-9346

Please let us know if you have additional questions and we look forward to your joining the call on Friday.

Elizabeth Tate Bennett  
Associate Administrator for Public Engagement & Environmental Education  
Office of the Administrator  
U.S. Environmental Protection Agency  
(202) 564-1460  
[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)

Message

---

**From:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Sent:** 1/17/2018 11:03:55 PM  
**To:** Bennett, Tate [Bennett.Tate@epa.gov]  
**Subject:** UPDATE- EPA CONFERENCE CALL ON ANIMAL WASTE EMISSIONS - 1/19 @ 1 PM EASTERN

**Importance:** High

All-

In order to accommodate additional phone lines, we will be updating the call-in information, including the phone number. Please be on the lookout for an e-mail from me with updated call-in information for Friday's call either tonight or tomorrow.

This call will still take place at the scheduled time, Friday, 1/19 at 1 PM Eastern.

Thanks for your patience.

Tate

Elizabeth Tate Bennett  
Associate Administrator for Public Engagement & Environmental Education  
Office of the Administrator  
U.S. Environmental Protection Agency  
(202) 564-1460  
Bennett.Tate@epa.gov

---

**From:** Bennett, Tate  
**Sent:** Wednesday, January 17, 2018 2:29 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Subject:** EPA CONFERENCE CALL ON ANIMAL WASTE EMISSIONS - 1/19 @ 1 PM EASTERN  
**Importance:** High

All—

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period.

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**WHO:** EPA CONFERENCE CALL ON ANIMAL WASTE EMISSIONS  
**WHEN:** FRIDAY, JANUARY 19, 1PM EASTERN START TIME (feel free to dial in early around 12:50 PM Eastern). TBD

**HOW:** **Conference Number / Ex. 6**

If you have any additional questions on this topic and for more information, please contact the Environmental Protection Agency via the information provided below:

- Visit [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) for guidance and access to the continuous release reporting forms
- Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
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- Call with questions: 1-800-424-9346

Please let us know if you have additional questions and we look forward to your joining the call on Friday.

Elizabeth Tate Bennett  
Associate Administrator for Public Engagement & Environmental Education  
Office of the Administrator  
U.S. Environmental Protection Agency  
(202) 564-1460  
[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)



**From:** Thomas, Latosha [Thomas.Latosha@epa.gov]  
**Sent:** 1/16/2018 10:49:21 PM  
**To:** Grantham, Nancy [Grantham.Nancy@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]  
**Subject:** Outreach Calls: Animal Waste

Hi everyone,

As you know, we are hosting calls for our stakeholders that will be impacted by the new reporting requirements related to animal waste. Based on my discussions with many of you earlier, I wanted to make sure that I've captured everything in the outline below. In addition, let me know if the language that will be sent with the call invites is ok. Thanks!

### **Animal Waste Outreach Calls**

**Overview:** EPA will host two (2) calls to notify stakeholders of the new requirements related to animal waste. The 1<sup>st</sup> call will include livestock trade associations + industry + state, local, tribal officials. The 2<sup>nd</sup> call will include actual members of the associations/organizations.

### **1st Call**

**When:** Thursday (1/18) @10AM ET

**Hosts:** Patty Gioffre/Kim Jennings (OEM/RID)

### **Key Messages:**

- Due to a recent court decision, farmers (including ranchers, livestock and/or animal operators) will soon be required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).
- EPA has issued guidance that is available online to assist farmers in estimating their air releases and reporting under CERCLA for air releases of hazardous substances from animal waste at farms (EPA's website also contains EPA's preliminary interpretation of EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304).
- The Agency has provided outreach materials (PSA, social media, article, widget, etc.) that are available for your use and to help you get the word out about these new requirements.

### **Participants:**

- Livestock Trade Associations
  - National Cattleman's Beef Association
  - Arizona Cattle Growers Association
  - National Chicken Council
  - National Council of Farmer Cooperatives

- National Turkey Federation
- US Poultry and Egg Association
- United Egg Producers
- National Pork Producers Council
- National Pork Board
- National Milk Producers Federation
- Mid-Atlantic Dairy Association
- Nisei Farmers League
- Innovation Center for US Dairy
- Dairy Farmers of America
- Dairy Management Inc.
- Livestock and Poultry Environmental Learning Center (extension agents at land grant universities)
- Cornell PRO-DAIRY Program
- Industry
  - Seaboard Farms
  - Tyson Foods
  - National Association of State Title III Officials (NASTTPO), State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs)
  - National Association of State Departments of Agriculture
  - National Association of Clean Air Agencies – Agriculture Committee
  - American Farm Bureau Federation
- Agricultural Retailers Association (ARA)
- The Fertilizer Institute (TFI)
- National Farmers Union
- National Association of Conservation Districts (NACD)
- Enviro/NGOs
  - Sierra Club

## **2nd Call**

**When:** Thursday (1/18) @2PM ET

**Hosts:** Tate Bennett (Patty Gioffre/Kim Jennings will participate for support)

### **Key Messages:**

- Due to a recent court decision, farmers (including ranchers, livestock and/or animal operators) will soon be required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).
- EPA has issued guidance that is available online to assist farmers in estimating their air releases and reporting under CERCLA for air releases of hazardous substances from animal waste at farms (EPA's website also contains EPA's preliminary interpretation of EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304).
- The Agency has provided outreach materials (PSA, social media, article, widget, etc.) that are available for your use and to help you get the word out about these new requirements.

**Participants:** Actual members of the above associations/organizations/groups

**Language to be sent with invites (+ attached comms materials)**

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of this call is to provide an overview and basic information for our stakeholders who are impacted by this new requirement.

**ACTIONS**

- OEM will send out invitations to participants of the 1<sup>st</sup> call
- OPE will send out invitations to participants of the 2<sup>nd</sup> call
- Latosha (OEM) will work with Cathy Milbourn (OPE) re: logistics for 2<sup>nd</sup> call\*

\*OEM should be able to handle the quantity of participants related to the 1<sup>st</sup> call since there will be less people.

Latosha Thomas  
U.S. Environmental Protection Agency  
OLEM/OEM/RMD  
(202) 564-2621 (desk)  
(202) 568-0851 (cell)  
thomas.latosha@epa.gov

Message

---

**From:** Darrel Mertens [aero@aeroapplicators.com]  
**Sent:** 1/18/2018 3:52:10 AM  
**To:** Perrin, Rebecca [Perrin.Rebecca@epa.gov]  
**Subject:** [SPAM-Sender] RE: EPA factsheets on CERCLA-EPCRA reporting for animal waste - Outreach materials

Rebecca, Thanks for all the info, Darrel

Sent from my Galaxy Tab® S2

----- Original message -----

From: "Perrin, Rebecca" <Perrin.Rebecca@epa.gov>  
Date: 1/17/18 13:47 (GMT-07:00)  
To: "Perrin, Rebecca" <Perrin.Rebecca@epa.gov>  
Cc: "Nguyen, Danny" <nguyen.danny@epa.gov>, "Atencio, Kathie" <Atencio.Kathie@epa.gov>, "Mutter, Andrew" <mutter.andrew@epa.gov>  
Subject: RE: EPA factsheets on CERCLA-EPCRA reporting for animal waste - Outreach materials

Hello all,

Another aspect of EPA's outreach was to develop a tool kit for states and associations interested in helping us to get the word out to producers. The goal is to direct farmers and ranchers to EPA's most up to date compliance information and guidance. If your organization is interested in helping us to get the word out, please feel free to use these materials. Included in the tool kit are:

<!--[if !supportLists]-->• <!--[endif]-->[Facebook Posts for toolkit](#)

<!--[if !supportLists]-->• <!--[endif]-->[Tweets for toolkit](#)

<!--[if !supportLists]-->• <!--[endif]-->[Audio file PSA](#) (may be shared or rebroadcast)

<!--[if !supportLists]-->• <!--[endif]-->[Widget for toolkit](#) (A widget is essentially a "button" put on your website that when clicked by the user sends them directly to our guidance website.)

All of these tools can also be found at: <https://www.epa.gov/agriculture/online-resources-cercla-and-epcra-air-emissions-agriculture>.

Call if questions.

Rebecca Perrin

---

**From:** Perrin, Rebecca

**Sent:** Tuesday, January 16, 2018 3:15 PM

**To:** Perrin, Rebecca <Perrin.Rebecca@epa.gov>

**Cc:** Nguyen, Danny <nguyen.danny@epa.gov>; Atencio, Kathie <Atencio.Kathie@epa.gov>; Mutter, Andrew <mutter.andrew@epa.gov>

**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste - Outreach materials

Hello all,

Attached is the new EPA fact sheet regarding Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This will hopefully help answer questions received from producers as we get closer to Jan 22, the anticipate date the Court will sign the mandate. No reporting is necessary until the mandate is issued by the court.

As you may recall, due to a court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the CERCLA when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of the attached fact sheet and FAQs is to provide an overview and basic information for those who are impacted by this new requirement. Fact Sheet Link: <https://www.epa.gov/epcra/fact-sheet-cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal>.

We anticipate there will be more outreach materials to share. I will provide this information as it becomes available from our HQ.

EPA has also created a shorter website ([www.epa.gov/animalwaste](http://www.epa.gov/animalwaste)) to the Guidance and other materials on our website. EPA continues to accept email comments or suggestions on the guidance materials at: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov). The Regional contacts for this program can be found at: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts). Finally, EPA has set up a toll free number for producers, or anyone else, to call and ask questions: 1-800-424-9346. We appreciate any assistance in helping us to spread the word about this.

If you have any questions, please feel free to call me, Danny Nguyen (303-312-6119) or use the contact information outlined above.

Thanks!

Rebecca Perrin

Region 8 Agriculture Advisor | Office of the Regional Administrator | USEPA

1595 Wynkoop Street | Denver CO 80202 | DL: 303-312-6311 | FAX: 303-312-6882

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Message

---

**From:** Perrin, Rebecca [Perrin.Rebecca@epa.gov]  
**Sent:** 1/17/2018 12:28:45 AM  
**To:** Thomas, Deb [thomas.debrah@epa.gov]  
**Subject:** FW: EPA factsheet on CERCLA-EPCRA reporting for animal waste - Outreach materials  
**Attachments:** CERCLA EPCRA Factsheet FINAL.PDF

FYL...

Rebecca Perrin  
Region 8 Agriculture Advisor | Office of the Regional Administrator | USEPA  
1595 Wynkoop Street | Denver CO 80202 | DL: 303-312-6311 | FAX: 303-312-6882

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---

**From:** Perrin, Rebecca  
**Sent:** Tuesday, January 16, 2018 2:52 PM  
**To:** Don Brown <don.brown@state.co.us>; Thomas, Ben <Benjamin.Thomas@mt.gov>; goehring@nd.gov; Mike Jaspers (SDDA) <mike.jaspers@state.sd.us>; Luann Adams <luannadams@utah.gov>; Doug Miyamoto <doug.miyamoto@wyo.gov>  
**Cc:** Benevento, Douglas <benevento.douglas@epa.gov>; Jenifer Gurr <jenifer.gurr@state.co.us>; Lover - CDA, Karen <karen.lover@state.co.us>; Jody Reinke <jodyreinke@nd.gov>; Jessie Pfaff <jkpfaff@nd.gov>; Melanie Gaebe <mgaebe@nd.gov>; tammy.harmon@state.sd.us; Dani Hanson <Danielle.Hanson@state.sd.us>; kmathews@utah.gov; mure@utah.gov; Jay Olsen <jayolsen@utah.gov>; Scott Ericson <sericson@utah.gov>; Stacia Berry (WDA) <stacia.berry@wyo.gov>; Chelsi Bay (MDA) <CBay@mt.gov>; Jenkins, Laura Flynn <Jenkins.Laura@epa.gov>; Mutter, Andrew <mutter.andrew@epa.gov>  
**Subject:** EPA factsheet on CERCLA-EPCRA reporting for animal waste - Outreach materials

Dear Agriculture commissioner, Directors and Secretary,

We appreciate the input your departments provided on outreach materials EPA should develop.

Attached is the new EPA fact sheet regarding Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This will hopefully help you and your staff to answer any questions received as we get closer to Jan 22, the anticipate date the Court will sign the mandate. No reporting is necessary until the mandate is issued by the court.

We anticipate there will be a public service announcement on radio stations later this week and there will be more outreach materials to share. I will provide this information as it becomes available from our HQ.

EPA has also created a shorter website ([www.epa.gov/animalwaste](http://www.epa.gov/animalwaste)) to the Guidance and other materials on our website. EPA continues to accept email comments or suggestions on the guidance materials at: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov). The Regional contacts for this program can be found at: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts). Finally, EPA has set up a toll free number for producers, or anyone else, to call and ask questions: 1-800-424-9346.

As you may recall, due to this court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the CERCLA when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of the attached [fact sheet](#) and FAQs is to provide an overview and basic information for those

who are impacted by this new requirement. Fact Sheet Link: <https://www.epa.gov/epcra/fact-sheet-cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal>.

If you or your staff have any questions, please feel free to call me directly or use the contact information outlined above.

Thanks!

Rebecca Perrin

Region 8 Agriculture Advisor | Office of the Regional Administrator | USEPA

1595 Wynkoop Street | Denver CO 80202 | DL: 303-312-6311 | FAX: 303-312-6882

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## CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms

### Overview

Two environmental laws, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right-to-Know Act (EPCRA), require reporting releases of a hazardous substance that exceeds a reportable quantity within a 24-hour period. The purpose of the notification is for federal, state, and local officials to evaluate the need for an emergency response to mitigate the effects of the release to the community.

Due to a recent court decision, some farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under CERCLA.

### Why do I need to report?

Previously, EPA exempted farms from reporting hazardous substance air releases from animal waste under CERCLA, and only large concentrated animal feeding operations (CAFOs) were subject to EPCRA reporting, which is a separate but related law.

Citizen groups challenged the validity of EPA's rule, and the U.S. Court of Appeals for the DC Circuit struck down EPA's rule on April 11, 2017. Therefore, EPA's regulatory exemption no longer applies.

**As a result of the Court decision, farms with animal operations that release certain amounts of hazardous substances will be required to report these air emissions as early as January 22, 2018.**

### When do I need to report?

The Court is expected to issue its order on January 22, 2018. Farms do not have to report until the Court issues its mandate.

### Do I need to submit a CERCLA report?

Reporting is required when releases of hazardous substances (like ammonia or hydrogen sulfide) from animal waste meet or exceed their reportable quantities within a 24-hour period. For a complete list of CERCLA hazardous substances, please see the Resources link at: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste).

### What substances need to be reported?

Ammonia (NH<sub>3</sub>) and hydrogen sulfide (H<sub>2</sub>S) are common hazardous substances emitted from animal waste that require reporting if released to the air in amounts greater than or equal to their reportable quantity of 100 lbs within a 24-hour period. If a farm releases any other hazardous substances above their designated reportable quantities within a 24-hour period, those need to be reported as well.

### How do I estimate releases?

To help you comply with the reporting requirements, EPA has made resources available on its website that may be helpful in estimating emissions. You may also use other models for estimating emissions or you may estimate quantities of releases by relying on:

- Past release data;
- Engineering estimates;
- Your knowledge of the facility's operations and release history; or
- Your best professional judgment.

### Why Can't EPA Tell Me How Many Animals Require Reporting?

EPA recognizes it will be challenging for farmers to estimate releases because there is no generally accepted methodology for estimating these emissions at this time.

Many factors influence emissions:

- geographic location;
- environmental conditions;
- management practices (e.g. feed, manure);
- animal characteristics (e.g. number, species, life stage);
- operating conditions; and
- general management practices.

Due to the complex interactions of these factors, emissions cannot be standardized based solely on the number and type of animals at each animal operation. For example, there are many scenarios when operations with fewer animals will have higher emissions than operations with greater numbers of the same species of animals.

EPA is working on developing methodologies to estimate emissions from a wide variety of operations and thus better inform emission estimates from animal waste. However, that work will not be completed prior to the Court's mandate that farms report.

Facility owners and operators are required to report an estimate only—monitoring data is not required. Additionally, farmers are not required to reduce emissions. Farmers should keep a copy of the calculation for future reference. For more information, please see the Resources link at: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste).

## How do I report for CERCLA?

To comply with CERCLA reporting requirements for air releases of hazardous substances from animal waste, instead of reporting every day, farms may follow a streamlined reporting process known as “continuous release reporting.” This requires the facility owner or operator to follow the steps outlined in the column to the right.

## How often do I need to estimate emissions?

If you use the continuous release reporting process, you need to review emissions from the farm once a year. You’ll also need to estimate emissions following any significant changes in operations that may result in statistically significant increases in emissions.

## Do I need to submit an EPCRA report?

EPA interprets the statute to exclude farms that use substances in “routine agricultural operations” from reporting under EPCRA section 304. This encompasses routine operations at farms, animal feeding operations, nurseries, other horticultural operations, and aquaculture. For more information, see: [www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal](http://www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal).

## Do farms that have animals that reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA?

Yes, if the facility has releases above the reportable quantity. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and add up the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

## Additional Resources

- Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- Regional Contacts: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Continuous Release Reporting Forms: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste)
- National Response Center: 800-424-8802 or [farms@uscg.mil](mailto:farms@uscg.mil)

## Questions?

- See the CERCLA and EPCRA guidance for more information: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste)
- Call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346

## CERCLA Continuous Release Reporting Process

**Step 1:** Provide the National Response Center (NRC) with an initial continuous release notification by email ([farms@uscg.mil](mailto:farms@uscg.mil)) or by phone (1-800-424-8802). An owner or operator can send one email notification for multiple farms.

Your email should identify that this is an initial continuous release notification and include:

- Name of the farm
- Location of the farm (e.g., name of city/town and state)
- Name(s) of the hazardous substance(s) released (ammonia and/or hydrogen sulfide)

**Note:** The NRC does not require personally identifiable information, such as an address for a private residence. A generic location (name of city/town and state) may be sufficient.

You will receive an email from the NRC with a single identification number (CR-ERNS) for your farms(s). Include the CR-ERNS number on the follow-up report discussed in Step 2.

**Step 2:** Within 30 days of the NRC notification, submit an initial written notification to the EPA Regional Office for the area where the release occurs (see [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)). Use the Continuous Release Reporting Form.

**Step 3:** Submit a one-time first anniversary follow-up report to the EPA Regional Office.

If there are significant changes at your operation that could result in a change in emissions, additional reporting may be necessary.

Message

---

**From:** Perrin, Rebecca [Perrin.Rebecca@epa.gov]  
**Sent:** 1/16/2018 10:20:29 PM  
**To:** Haroldson, Marty R. [mharolds@nd.gov]  
**Subject:** FW: EPA factsheets on CERCLA-EPCRA reporting for animal waste - Outreach materials  
**Attachments:** CERCLA EPCRA Factsheet FINAL.PDF

FYI... More to follow.

Rebecca Perrin  
Region 8 Agriculture Advisor | Office of the Regional Administrator | USEPA  
1595 Wynkoop Street | Denver CO 80202 | DL: 303-312-6311 | FAX: 303-312-6882

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---

**From:** Perrin, Rebecca  
**Sent:** Tuesday, January 16, 2018 3:15 PM  
**To:** Perrin, Rebecca <Perrin.Rebecca@epa.gov>  
**Cc:** Nguyen, Danny <nguyen.danny@epa.gov>; Atencio, Kathie <Atencio.Kathie@epa.gov>; Mutter, Andrew <mutter.andrew@epa.gov>  
**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste - Outreach materials

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As you may recall, due to a court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the CERCLA when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of the attached fact sheet and FAQs is to provide an overview and basic information for those who are impacted by this new requirement. Fact Sheet Link: <https://www.epa.gov/epcra/fact-sheet-cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal>.

We anticipate there will be more outreach materials to share. I will provide this information as it becomes available from our HQ.

EPA has also created a shorter website ([www.epa.gov/animalwaste](http://www.epa.gov/animalwaste)) to the Guidance and other materials on our website. EPA continues to accept email comments or suggestions on the guidance materials at: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov). The Regional contacts for this program can be found at: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts). Finally, EPA has set up a toll free number for producers, or anyone else, to call and ask questions: 1-800-424-9346. We appreciate any assistance in helping us to spread the word about this.

If you have any questions, please feel free to call me, Danny Nguyen (303-312-6119) or use the contact information outlined above.

Thanks!

Rebecca Perrin

Region 8 Agriculture Advisor | Office of the Regional Administrator | USEPA

1595 Wynkoop Street | Denver CO 80202 | DL: 303-312-6311 | FAX: 303-312-6882

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## CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms

### Overview

Two environmental laws, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right-to-Know Act (EPCRA), require reporting releases of a hazardous substance that exceeds a reportable quantity within a 24-hour period. The purpose of the notification is for federal, state, and local officials to evaluate the need for an emergency response to mitigate the effects of the release to the community.

Due to a recent court decision, some farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under CERCLA.

### Why do I need to report?

Previously, EPA exempted farms from reporting hazardous substance air releases from animal waste under CERCLA, and only large concentrated animal feeding operations (CAFOs) were subject to EPCRA reporting, which is a separate but related law.

Citizen groups challenged the validity of EPA's rule, and the U.S. Court of Appeals for the DC Circuit struck down EPA's rule on April 11, 2017. Therefore, EPA's regulatory exemption no longer applies.

**As a result of the Court decision, farms with animal operations that release certain amounts of hazardous substances will be required to report these air emissions as early as January 22, 2018.**

### When do I need to report?

The Court is expected to issue its order on January 22, 2018. Farms do not have to report until the Court issues its mandate.

### Do I need to submit a CERCLA report?

Reporting is required when releases of hazardous substances (like ammonia or hydrogen sulfide) from animal waste meet or exceed their reportable quantities within a 24-hour period. For a complete list of CERCLA hazardous substances, please see the Resources link at: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste).

### What substances need to be reported?

Ammonia (NH<sub>3</sub>) and hydrogen sulfide (H<sub>2</sub>S) are common hazardous substances emitted from animal waste that require reporting if released to the air in amounts greater than or equal to their reportable quantity of 100 lbs within a 24-hour period. If a farm releases any other hazardous substances above their designated reportable quantities within a 24-hour period, those need to be reported as well.

### How do I estimate releases?

To help you comply with the reporting requirements, EPA has made resources available on its website that may be helpful in estimating emissions. You may also use other models for estimating emissions or you may estimate quantities of releases by relying on:

- Past release data;
- Engineering estimates;
- Your knowledge of the facility's operations and release history; or
- Your best professional judgment.

### Why Can't EPA Tell Me How Many Animals Require Reporting?

EPA recognizes it will be challenging for farmers to estimate releases because there is no generally accepted methodology for estimating these emissions at this time.

Many factors influence emissions:

- geographic location;
- environmental conditions;
- management practices (e.g. feed, manure);
- animal characteristics (e.g. number, species, life stage);
- operating conditions; and
- general management practices.

Due to the complex interactions of these factors, emissions cannot be standardized based solely on the number and type of animals at each animal operation. For example, there are many scenarios when operations with fewer animals will have higher emissions than operations with greater numbers of the same species of animals.

EPA is working on developing methodologies to estimate emissions from a wide variety of operations and thus better inform emission estimates from animal waste. However, that work will not be completed prior to the Court's mandate that farms report.

Facility owners and operators are required to report an estimate only—monitoring data is not required. Additionally, farmers are not required to reduce emissions. Farmers should keep a copy of the calculation for future reference. For more information, please see the Resources link at: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste).

## How do I report for CERCLA?

To comply with CERCLA reporting requirements for air releases of hazardous substances from animal waste, instead of reporting every day, farms may follow a streamlined reporting process known as “continuous release reporting.” This requires the facility owner or operator to follow the steps outlined in the column to the right.

## How often do I need to estimate emissions?

If you use the continuous release reporting process, you need to review emissions from the farm once a year. You’ll also need to estimate emissions following any significant changes in operations that may result in statistically significant increases in emissions.

## Do I need to submit an EPCRA report?

EPA interprets the statute to exclude farms that use substances in “routine agricultural operations” from reporting under EPCRA section 304. This encompasses routine operations at farms, animal feeding operations, nurseries, other horticultural operations, and aquaculture. For more information, see: [www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal](http://www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal).

## Do farms that have animals that reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA?

Yes, if the facility has releases above the reportable quantity. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and add up the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

## Additional Resources

- Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- Regional Contacts: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Continuous Release Reporting Forms: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste)
- National Response Center: 800-424-8802 or [farms@uscg.mil](mailto:farms@uscg.mil)

## Questions?

- See the CERCLA and EPCRA guidance for more information: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste)
- Call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346

## CERCLA Continuous Release Reporting Process

**Step 1:** Provide the National Response Center (NRC) with an initial continuous release notification by email ([farms@uscg.mil](mailto:farms@uscg.mil)) or by phone (1-800-424-8802). An owner or operator can send one email notification for multiple farms.

Your email should identify that this is an initial continuous release notification and include:

- Name of the farm
- Location of the farm (e.g., name of city/town and state)
- Name(s) of the hazardous substance(s) released (ammonia and/or hydrogen sulfide)

**Note:** The NRC does not require personally identifiable information, such as an address for a private residence. A generic location (name of city/town and state) may be sufficient.

You will receive an email from the NRC with a single identification number (CR-ERNS) for your farms(s). Include the CR-ERNS number on the follow-up report discussed in Step 2.

**Step 2:** Within 30 days of the NRC notification, submit an initial written notification to the EPA Regional Office for the area where the release occurs (see [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)). Use the Continuous Release Reporting Form.

**Step 3:** Submit a one-time first anniversary follow-up report to the EPA Regional Office.

If there are significant changes at your operation that could result in a change in emissions, additional reporting may be necessary.

Message

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**From:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Sent:** 1/16/2018 9:29:57 PM  
**To:** EPA AFO Program Listserve [afo\_listserve@lists.epa.gov]  
**Subject:** [afo\_listserve] FW: EPA factsheets on CERCLA-EPCRA reporting for animal waste

FYI, please see the announcement below from EPA's Office of Emergency Management regarding a new factsheet for outreach on CERCLA-EPCRA reporting for animal waste.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

-----

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and FAQs is to provide an overview and basic information for those who are impacted by this new requirement.

If you have any questions, please contact the Environmental Protection Agency via the information provided below:

- Visit [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) for guidance and access to the continuous release reporting forms (including [new factsheet](#))
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- Regional Contacts: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Call with questions: 1-800-424-9346

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You are currently subscribed to afo\_listserve as: perrin.rebecca@epa.gov

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For problems with this list, contact [afo\\_listserve-Owner@lists.epa.gov](mailto:afo_listserve-Owner@lists.epa.gov)

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### Questions?

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**Step 3:** Submit a one-time first anniversary follow-up report to the EPA Regional Office.

If there are significant changes at your operation that could result in a change in emissions, additional reporting may be necessary.

Message

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**From:** Brown, Karl [kbrown@pa.gov]  
**Sent:** 1/30/2018 4:26:17 PM  
**To:** Shenk, Kelly [shenk.kelly@epa.gov]  
**Subject:** RE: CERCLA/EPCRA Website Updates

TY

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**From:** Shenk, Kelly [mailto:shenk.kelly@epa.gov]  
**Sent:** Tuesday, January 30, 2018 9:41 AM  
**Subject:** CERCLA/EPCRA Website Updates

All-Providing an update on CERCLA/EPCRA outreach activities. Please feel free to share this information.

-----

**Website revisions**

Today EPA updated the CERCLA/EPCRA website [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) to include new Q&As and to reorganize the information to make it easier to follow.

New questions:

- Why do I need to report?
- Why can't EPA tell me how many animals require reporting?
- How will EPA protect my personal information?

We will continue to update the website with additional questions as responses are developed.

We have also reorganized the site to group FAQ's into categories.

- Updates
- Overview
- Reporting Exemption and Resulting Litigation
- Purpose
- Frequent Questions
  - Reporting Requirements
    - EPCRA Reporting Requirements
    - General CERCLA Requirements
    - Previous Reporting
    - Other Circumstances
  - How to Report
  - Emissions
- Resources

**Court Mandate**

As of this time, the DC Circuit Court of Appeals has not yet issued the mandate to eliminate the EPA administrative reporting exemption on the CERCLA/EPCRA reporting requirements for farms. The court has not yet responded to the EPA's request to further delay the mandate. Once the court makes a decision, we will send out an update. Once the court issues the mandate the statutory reporting requirements will go back into effect.

Please don't hesitate to call if you have any questions. K

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division

shenk.kelly@epa.gov  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

Message

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**From:** Shenk, Kelly [shenk.kelly@epa.gov]  
**Sent:** 1/30/2018 2:40:40 PM  
**Subject:** CERCLA/EPCRA Website Updates

All-Providing an update on CERCLA/EPCRA outreach activities. Please feel free to share this information.

-----

**Website revisions**

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Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

Message

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**From:** Brayboy, Stacey (GOV) [Stacey.Brayboy@governor.virginia.gov]  
**Sent:** 1/17/2018 10:44:14 PM  
**To:** Shenk, Kelly [shenk.kelly@epa.gov]  
**Subject:** Re: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Thanks and looking forward to meeting you

Sent from my iPhone

On Jan 17, 2018, at 12:56 PM, Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)> wrote:

Hi Stacey! Welcome aboard! My Deputy Regional Administrator is sending this information to Secretary Ring today. And I wanted to make sure you received it as well (see email below). We look forward to meeting both you and Sec. Ring soon.

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
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Attached are factsheets (in English and Spanish) on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and Frequently Asked Questions is to provide an overview and basic information for those who are impacted by this new requirement. If you have any questions, please contact the Environmental Protection Agency via the information provided below:

- ? <!--[if !supportLists]--><!--[endif]-->Visit [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) for guidance and access to the continuous release reporting forms
- ? <!--[if !supportLists]--><!--[endif]-->Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- ? <!--[if !supportLists]--><!--[endif]-->Region III contacts can be found at this site: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- ? <!--[if !supportLists]--><!--[endif]-->Call with questions: 1-800-424-9346

The factsheets are also available on the CERCLA/EPCRA website. A link is available at the top of the page: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) or you can link to the factsheets directly at <https://www.epa.gov/epcra/fact-sheet-cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal>.

A public service announcement is expected to be released to ag radio networks later today, and an online toolkit with other outreach materials will also be out soon. For the time being, feel free to share

this factsheet with any contacts who may field questions from farmers once the public service announcement airs.

Let me know if you have any questions/concerns.  
Thank you!

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

<CERCLA EPCRA Factsheet FINAL.PDF>

<CERCLA EPCRA Factsheet FINAL (SPANISH).pdf>

Message

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**From:** Gilley, Anne [Gilley.anne@epa.gov]  
**Sent:** 1/17/2018 6:38:01 PM  
**To:** Shenk, Kelly [shenk.kelly@epa.gov]  
**Subject:** RE: DRA Request  
**Attachments:** FW: CERCLA Reporting; FW: Question from yesterday; FW: CERCLA Question Again - Those that have reported

Kelly,

Two items from our call today...

1) **Deliberative Process / Ex. 5**

2) The email correspondence I've had with DPI (Holly Porter and Bill Satterfield) is attached.

Thanks!

---

Anne Gilley  
Oil & Prevention Branch  
U.S. EPA Region III  
1650 Arch Street, Mailcode 3HS61  
Philadelphia, PA 19103  
Direct (215) 814-3293  
[gilley.anne@epa.gov](mailto:gilley.anne@epa.gov)

---

**From:** Shenk, Kelly  
**Sent:** Wednesday, January 17, 2018 9:31 AM  
**To:** Gilley, Anne <Gilley.anne@epa.gov>  
**Subject:** DRA Request  
**Importance:** High

Hi Anne,

**Deliberative Process / Ex. 5**

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**From:** Holly Porter [<mailto:porter@dpichicken.com>]  
**Sent:** Tuesday, January 16, 2018 8:20 PM  
**To:** Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>  
**Cc:** Bill Satterfield <[Satterfield@dpichicken.com](mailto:Satterfield@dpichicken.com)>  
**Subject:** Re: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Kelly

Thank you for the email. I had found this on the website this afternoon.

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

# Deliberative Process / Ex. 5

Finally we have to continue to share there are a number of growers that don't own computers, or don't have email, or don't have decent broadband in our region, so an email 1st notification should not be the only option for compliance. In November when a few folks tried to call NRC, they were told they had to email.

I'm happy to talk more. I believe I had the chance to meet you once while I was at DDA, but I look forward to working with you more with DPI.

## Cellular Phone / Ex. 6

Sent from my iPhone

On Jan 16, 2018, at 7:43 PM, Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)> wrote:

Hi Bill and Holly, I sent a mass email out tonight, but wanted to follow up with a direct email to you conveying the latest EPA outreach materials below. Hope these are helpful for your members! K

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

**From:** Shenk, Kelly  
**Sent:** Tuesday, January 16, 2018 7:24 PM  
**Subject:** FW: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Attached are factsheets (in English and Spanish) on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and Frequently Asked Questions is to provide an overview and basic information for those who are impacted by this new requirement. If you have any questions, please contact the Environmental Protection Agency via the information provided below:

- ? Visit [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) for guidance and access to the continuous release reporting forms
- ? Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- ? Region III contacts can be found at this site: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- ? Call with questions: 1-800-424-9346

The factsheets are also available on the CERCLA/EPCRA website. A link is available at the top of the page: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) or you can link to the factsheets directly at <https://www.epa.gov/epcra/fact-sheet-cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal>.



A public service announcement is expected to be released to ag radio networks later today, and an online toolkit with other outreach materials will also be out soon. For the time being, feel free to share this factsheet with any contacts who may field questions from farmers once the public service announcement airs.

Let me know if you have any questions/concerns.  
Thank you!

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

**From:** Holly Porter [<mailto:porter@dpichicken.com>]  
**Sent:** Monday, January 08, 2018 11:49 AM  
**To:** CERCLA103.guidance <[CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)>  
**Cc:** Bill Satterfield <[Satterfield@dpichicken.com](mailto:Satterfield@dpichicken.com)>; Paul Bredwell <[pbredwell@uspoultry.org](mailto:pbredwell@uspoultry.org)>; Gilley, Anne <[Gilley.anne@epa.gov](mailto:Gilley.anne@epa.gov)>  
**Subject:** NRC email vs. phone number concern

Hello. The Delmarva Poultry Industry, Inc., representing more than 1,100 chicken growers in Delaware, the Eastern Shore of Maryland and Accomack County, Virginia, appreciates all the work that EPA has done to keep the public informed as changes occur and we approach the possible January 22 court mandated deadline for CERCLA reporting. We are trying to keep our members as informed as possible, through emails, newsletters, phone calls, mailings and upcoming meetings. We did notice in the most recent update a new email address that is specific to farms for the initial continuous release notification. We also notice that under that first question in the "Frequent Questions" section, it says:

"Email should be used by farms for the initial continuous release notification. For other types of releases that require immediate response, please call the NRC at 1-800-424-8802."

While email is great, there are a number of growers that either don't use email (or own computers) or don't have the broadband allowing them to email this information. We want to be sure that the National Response Center is aware of that, and will still accept the initial continuous release notification by phone. I had several members contact me in November when they tried to make the phone calls then, and NRC told them that they had to email. Email only is not a viable option for compliance.

We appreciate all the help you can offer in sharing our concerns with NRC and we are happy to answer any questions you may have.

Holly

Holly Porter | Assistant Executive Director  
Delmarva Poultry Industry, Inc.

16686 County Seat Highway

Georgetown, DE 19947

[porter@dpichicken.com](mailto:porter@dpichicken.com)

O: 302-856-9037, ext. 106 | C: **Cellular Phone / Ex. 6**

[dpichicken.org](http://dpichicken.org) | [Facebook](#) | [Twitter: @dpichicken](#)

Message

---

**From:** Gilley, Anne [Gilley.anne@epa.gov]  
**Sent:** 1/17/2018 6:35:28 PM  
**To:** Gilley, Anne [Gilley.anne@epa.gov]  
**Subject:** FW: Question from yesterday

---

**From:** Holly Porter [mailto:porter@dpichicken.com]  
**Sent:** Tuesday, November 21, 2017 10:29 AM  
**To:** Gilley, Anne <Gilley.anne@epa.gov>  
**Subject:** RE: Question from yesterday

THANK YOU!! This was a big help and we are sending out communications to our grower members today.

Holly

Holly Porter | Assistant Executive Director  
Delmarva Poultry Industry, Inc.  
16686 County Seat Highway  
Georgetown, DE 19947  
[porter@dpichicken.com](mailto:porter@dpichicken.com)  
O: 302-856-9037, ext. 106 | [Cellular Phone / Ex. 6](#)  
[dpichicken.org](http://dpichicken.org) | [Facebook](#) | [Twitter: @dpichicken](#)

---

**From:** Gilley, Anne [mailto:Gilley.anne@epa.gov]  
**Sent:** Tuesday, November 21, 2017 8:53 AM  
**To:** Holly Porter <porter@dpichicken.com>  
**Subject:** Question from yesterday

Holly,

I think this Q&A should answer your question from yesterday. It was sent out to the regions from EPA HQ.

**Q. If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?**

A: No. For those farmers who have already made their initial continuous release notification, the farmer should wait to submit the written report until the court issues the mandate. Within 30 days of the court mandate, the farmer must submit a written report to the EPA regional office. No additional call or email to the NRC is required.

Let me know if you have additional questions. Thanks.

---

Anne Gilley  
Oil & Prevention Branch  
U.S. EPA Region III

1650 Arch Street, Mailcode 3HS61  
Philadelphia, PA 19103  
Direct (215) 814-3293  
[gilley.anne@epa.gov](mailto:gilley.anne@epa.gov)

This email message is intended only for the addressee(s) and contain information that may be confidential and/or copyrighted. If you are not the intended recipient, please notify the sender by reply email and immediately delete this email. Use, disclosure or reproduction of this email by anyone other than the intended recipient(s) is strictly prohibited. No representation is made that this email or any attachments are free of viruses. Virus scanning is recommended and is the responsibility of the recipient.

## CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms

### Overview

Two environmental laws, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right-to-Know Act (EPCRA), require reporting releases of a hazardous substance that exceeds a reportable quantity within a 24-hour period. The purpose of the notification is for federal, state, and local officials to evaluate the need for an emergency response to mitigate the effects of the release to the community.

Due to a recent court decision, some farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under CERCLA.

### Why do I need to report?

Previously, EPA exempted farms from reporting hazardous substance air releases from animal waste under CERCLA, and only large concentrated animal feeding operations (CAFOs) were subject to EPCRA reporting, which is a separate but related law.

Citizen groups challenged the validity of EPA's rule, and the U.S. Court of Appeals for the DC Circuit struck down EPA's rule on April 11, 2017. Therefore, EPA's regulatory exemption no longer applies.

**As a result of the Court decision, farms with animal operations that release certain amounts of hazardous substances will be required to report these air emissions as early as January 22, 2018.**

### When do I need to report?

The Court is expected to issue its order on January 22, 2018. Farms do not have to report until the Court issues its mandate.

### Do I need to submit a CERCLA report?

Reporting is required when releases of hazardous substances (like ammonia or hydrogen sulfide) from animal waste meet or exceed their reportable quantities within a 24-hour period. For a complete list of CERCLA hazardous substances, please see the Resources link at: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste).

### What substances need to be reported?

Ammonia (NH<sub>3</sub>) and hydrogen sulfide (H<sub>2</sub>S) are common hazardous substances emitted from animal waste that require reporting if released to the air in amounts greater than or equal to their reportable quantity of 100 lbs within a 24-hour period. If a farm releases any other hazardous substances above their designated reportable quantities within a 24-hour period, those need to be reported as well.

### How do I estimate releases?

To help you comply with the reporting requirements, EPA has made resources available on its website that may be helpful in estimating emissions. You may also use other models for estimating emissions or you may estimate quantities of releases by relying on:

- Past release data;
- Engineering estimates;
- Your knowledge of the facility's operations and release history; or
- Your best professional judgment.

### Why Can't EPA Tell Me How Many Animals Require Reporting?

EPA recognizes it will be challenging for farmers to estimate releases because there is no generally accepted methodology for estimating these emissions at this time.

Many factors influence emissions:

- geographic location;
- environmental conditions;
- management practices (e.g. feed, manure);
- animal characteristics (e.g. number, species, life stage);
- operating conditions; and
- general management practices.

Due to the complex interactions of these factors, emissions cannot be standardized based solely on the number and type of animals at each animal operation. For example, there are many scenarios when operations with fewer animals will have higher emissions than operations with greater numbers of the same species of animals.

EPA is working on developing methodologies to estimate emissions from a wide variety of operations and thus better inform emission estimates from animal waste. However, that work will not be completed prior to the Court's mandate that farms report.

Facility owners and operators are required to report an estimate only—monitoring data is not required. Additionally, farmers are not required to reduce emissions. Farmers should keep a copy of the calculation for future reference. For more information, please see the Resources link at: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste).

## How do I report for CERCLA?

To comply with CERCLA reporting requirements for air releases of hazardous substances from animal waste, instead of reporting every day, farms may follow a streamlined reporting process known as “continuous release reporting.” This requires the facility owner or operator to follow the steps outlined in the column to the right.

## How often do I need to estimate emissions?

If you use the continuous release reporting process, you need to review emissions from the farm once a year. You’ll also need to estimate emissions following any significant changes in operations that may result in statistically significant increases in emissions.

## Do I need to submit an EPCRA report?

EPA interprets the statute to exclude farms that use substances in “routine agricultural operations” from reporting under EPCRA section 304. This encompasses routine operations at farms, animal feeding operations, nurseries, other horticultural operations, and aquaculture. For more information, see: [www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal](http://www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal).

## Do farms that have animals that reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA?

Yes, if the facility has releases above the reportable quantity. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and add up the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

## Additional Resources

- Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- Regional Contacts: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Continuous Release Reporting Forms: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste)
- National Response Center: 800-424-8802 or [farms@uscg.mil](mailto:farms@uscg.mil)

## Questions?

- See the CERCLA and EPCRA guidance for more information: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste)
- Call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346

## CERCLA Continuous Release Reporting Process

**Step 1:** Provide the National Response Center (NRC) with an initial continuous release notification by email ([farms@uscg.mil](mailto:farms@uscg.mil)) or by phone (1-800-424-8802). An owner or operator can send one email notification for multiple farms.

Your email should identify that this is an initial continuous release notification and include:

- Name of the farm
- Location of the farm (e.g., name of city/town and state)
- Name(s) of the hazardous substance(s) released (ammonia and/or hydrogen sulfide)

**Note:** The NRC does not require personally identifiable information, such as an address for a private residence. A generic location (name of city/town and state) may be sufficient.

You will receive an email from the NRC with a single identification number (CR-ERNS) for your farms(s). Include the CR-ERNS number on the follow-up report discussed in Step 2.

**Step 2:** Within 30 days of the NRC notification, submit an initial written notification to the EPA Regional Office for the area where the release occurs (see [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)). Use the Continuous Release Reporting Form.

**Step 3:** Submit a one-time first anniversary follow-up report to the EPA Regional Office.

If there are significant changes at your operation that could result in a change in emissions, additional reporting may be necessary.

## Mid-Atlantic Ag Leaders Meeting in Annapolis – April 20, 2018

### RA Briefing

**Date/Time:** April 20, 2018, 9:30 – 2:00 PM

**Location:** Maryland Department of Agriculture  
50 Harry S. Truman Parkway  
Annapolis, MD 21401

**Purpose:** Maryland Agriculture Secretary Joe Bartenfelder will host his annual meeting with Chesapeake Bay State Ag Secretaries and Commissioners to discuss key issues affecting the Chesapeake Bay and agriculture.

**Background:** MD Ag Secretary Joe Bartenfelder has hosted annual meetings with Chesapeake Bay state agriculture secretaries since he came into office to bring all Bay states up to a similar level of commitment and effort in the Chesapeake Bay restoration effort. Last year was the first time that Secretary Bartenfelder invited EPA to attend (Acting RA Cecil Rodrigues). Following the April 2017 meeting, Acting RA Rodrigues hosted a meeting on September 28, 2017 with Region III State Ag Secretaries and Commissioners. The scope of this meeting went beyond the Chesapeake Bay restoration effort and covered other topics and opportunities for EPA and the states to work together (funding, urban agriculture, pesticides, education/outreach, etc.).

**Participants:** *(MDA will send a list of confirmed participants in advance of the meeting)*  
EPA: Cosmo Servidio, RA; Kelly Shenk Ag Advisor; Kyle Zieba, Maryland Liaison, OCGR  
MD: Joe Bartenfelder, Ag Secretary; MDA deputy secretaries, program staff, and communications staff usually attend as well.  
PA: Greg Hostetter, Deputy Ag Secretary, Karl Brown, Executive Secretary of State Conservation Commission will go in Secretary Redding's place.  
DE: Michael Scuse, Ag Secretary  
VA: Bettina Rink, Ag Secretary  
WV: Kent Leonhardt, Ag Commissioner  
NY: Richard Ball, Ag Commissioner  
Barbara (Barb) Glenn, NASDA CEO

**Point of Contact:**

Deborah Proud, Executive Associate to Secretary Joe Bartenfelder, 410-841-5880,  
[deborah.proud@maryland.gov](mailto:deborah.proud@maryland.gov)

**Itinerary:** Topics to cover are:

- Food Safety
- Healthy Soils
- Dairy Industry (economic hardship)
- Manure Handling
- Labor Issues – H2A (visa allowing foreign national entry to US for temporary seasonal ag work)
- EPA Updates on National Policies and Follow up from September Ag Secretaries/Commissioners meeting in Philly (10-15 minutes)

*Morning coffee and lunch will be provided. A photo of all Secretaries will be taken in the courtyard.*

**RA Talking Points:**

- **Thank you for Continuing this Dialogue:** Joe, I appreciate your efforts to get us all together each year to discuss agriculture and the Chesapeake Bay. Keeping the lines of communication open is so important in finding ways we can work together.
- **Updates since September Meeting:** We all met in September at our Philly office and I wanted to share with you some specific efforts that are underway as a result.
- **Chesapeake Bay Grants and CWSRF:** I have had discussions with most of you about our EPA Chesapeake Bay grants. Last week I sent a joint letter to the ag and environment secretary in each state regarding our ability to direct the grants to both the environment and ag agencies.
  - Given that the Chesapeake Bay restoration is a shared responsibility among the state agencies, directing funds to each agency may be more efficient.
  - So please work with your sister agencies to figure out the best way to get the money on the ground efficiently and then let's make it happen.
  - And as you map out your funding plan, please take us up on the offer we extended in September to meet with your ag and environment agencies to take advantage of our Clean Water State Revolving Fund for ag practices. PA is well on its way to taking advantage of this funding. And we'd be happy to talk with your state agencies in more detail when you are ready.
- **"No Surprises Policy:"** We promised to let you know ahead of time when we planned to be on farms in your state. In the early part of this year (Feb-April) we inspected a handful of CAFOs in PA and MD. Kelly informed Joe and Russell and invited their departments to join us on the inspections. Hans, I know you and some of your MDA staff joined us on these inspections. They said your presence there was an asset.

[ PAGE \\* MERGEFORMAT ]



- **Worker Protection Standards Trainings** – Delaware asked us to conduct joint WPS trainings which we did at DE Ag Week and the Mar-Del Watermelon Convention earlier this year. These trainings went well.
- **CBF Settlement Agreement:** We have a Settlement Agreement with the Chesapeake Bay Foundation regarding the Chesapeake Bay TMDL which involved four activities we agreed to conduct related to animal agriculture.
  - Animal Ag State Program Assessments
  - AFO Assessments in 4 Small Watersheds
  - Review of CAFO permits and nutrient management plans
  - Our final commitment: based on all that we learned from these assessments and states' progress in the Bay restoration effort, we need to determine whether revisions the CAFO regulations are necessary for the states to meet their Chesapeake Bay animal agriculture commitments outlined in their Watershed Implementation Plans. The assessment is due June 30<sup>th</sup>.
  - For each of the products we have published for the Settlement Agreement, we have provided the Ag Secretaries the report and a courtesy briefing in advance of releasing the report publicly. And we will do the same for this assessment.
- **Communication with Ag Community is Key** – I am continuing to put a priority on ag outreach. Ag Roundtables and educational Farm tours are some of the best ways to hear what's on farmers' minds and find ways we can be work together.
  - We have had some great exchanges with the agricultural community in DE and PA. I know Kyle was just out with Joe and MD farmers at a manure injection field day this week. And we look forward to finding other opportunities for engagement in your states.
- **National Efforts:** Regarding what's happening nationally, the biggest news that we have already communicated to you is that on March 23<sup>rd</sup> the Omnibus Bill was signed into law which included the FARM Act (Fair Agricultural Reporting Method Act) which exempts the reporting of "air emissions from animal waste at a farm" under CERCLA.

**Briefing Materials:** *(under development)*

- Summary of Ag Outreach over last six months
- September 28, 2017 EPA/Ag Secretaries Meeting – Status of Action Items
- Dairy Economic Hardship - article
- Trade Wars - article
- Status of MD and PA CAFO inspections conducted Feb-March 2018

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/17/2018 5:56:35 PM  
**To:** Stacey.brayboy@governor.virginia.gov  
**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste  
**Attachments:** CERCLA EPCRA Factsheet FINAL.PDF; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf

Hi Stacey! Welcome aboard! My Deputy Regional Administrator is sending this information to Secretary Ring today. And I wanted to make sure you received it as well (see email below). We look forward to meeting both you and Sec. Ring soon.

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

Attached are factsheets (in English and Spanish) on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and Frequently Asked Questions is to provide an overview and basic information for those who are impacted by this new requirement. If you have any questions, please contact the Environmental Protection Agency via the information provided below:

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- Region III contacts can be found at this site: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Call with questions: 1-800-424-9346

The factsheets are also available on the CERCLA/EPCRA website. A link is available at the top of the page: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) or you can link to the factsheets directly at <https://www.epa.gov/epcra/fact-sheet-cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal>.

A public service announcement is expected to be released to ag radio networks later today, and an online toolkit with other outreach materials will also be out soon. For the time being, feel free to share this factsheet with any contacts who may field questions from farmers once the public service announcement airs.

Let me know if you have any questions/concerns.  
Thank you!

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:

EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/17/2018 3:12:12 PM  
**To:** Hema Subramanian (Subramanian.Hema@epa.gov) [Subramanian.Hema@epa.gov]  
**Subject:** FW: Carper - DPI

Request: Senator Carper (DE) asked to ensure that Delmarva Poultry Industry, Inc. and EPA are coordinating on outreach materials to ensure consistency.

Approach: Jeff thinks a call with DPI would be useful.

Participants for Call:

HQ: TBD

Region 3: Kelly Shenk, Ag Advisor, and Anne Gilley, EPA Region 3 lead on EPCRA/CERCLA

DPI: Bill Satterfield (Executive Director), Holly Porter, Assistant Executive Director

To include if necessary and appropriate: Senator Carper's office? EPA Region 3 Administrator (Cosmo Servidio) or Deputy Administrator (Cecil Rodrigues)

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

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**From:** Shenk, Kelly  
**Sent:** Wednesday, January 17, 2018 10:04 AM  
**To:** Hema Subramanian (Subramanian.Hema@epa.gov) <Subramanian.Hema@epa.gov>  
**Subject:** Carper - DPI

**Delmarva Poultry Industry, Inc. Comments on CERCLA/EPCRA Air Emission Reporting Requirements**

Summary of Issues Raised by DPI:

- Status of streamlined reporting form
- Lack of estimation tool – makes it hard to determine upper and lower levels asked for on the continuous release form
- Need other reporting options beyond email (suggest phone) – given that a number of growers don't own computers, or don't have email, or don't have decent broadband in the region.

DPI Comments sent to EPA:

**From:** Holly Porter [<mailto:porter@dpichicken.com>]  
**Sent:** Monday, January 08, 2018 11:49 AM  
**To:** CERCLA103.guidance <[CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)>  
**Cc:** Bill Satterfield <[Satterfield@dpichicken.com](mailto:Satterfield@dpichicken.com)>; Paul Bredwell <[pbredwell@uspoultry.org](mailto:pbredwell@uspoultry.org)>; Gilley, Anne <[Gilley.anne@epa.gov](mailto:Gilley.anne@epa.gov)>  
**Subject:** NRC email vs. phone number concern

Hello. The Delmarva Poultry Industry, Inc., representing more than 1,100 chicken growers in Delaware, the Eastern Shore of Maryland and Accomack County, Virginia, appreciates all the work that EPA has done to keep the public informed as

changes occur and we approach the possible January 22 court mandated deadline for CERCLA reporting. We are trying to keep our members as informed as possible, through emails, newsletters, phone calls, mailings and upcoming meetings. We did notice in the most recent update a new email address that is specific to farms for the initial continuous release notification. We also notice that under that first question in the "Frequent Questions" section, it says:

"Email should be used by farms for the initial continuous release notification. For other types of releases that require immediate response, please call the NRC at 1-800-424-8802."

While email is great, there are a number of growers that either don't use email (or own computers) or don't have the broadband allowing them to email this information. We want to be sure that the National Response Center is aware of that, and will still accept the initial continuous release notification by phone. I had several members contact me in November when they tried to make the phone calls then, and NRC told them that they had to email. Email only is not a viable option for compliance.

We appreciate all the help you can offer in sharing our concerns with NRC and we are happy to answer any questions you may have.

Holly

Holly Porter | Assistant Executive Director  
Delmarva Poultry Industry, Inc.

16686 County Seat Highway

Georgetown, DE 19947

[porter@dpichicken.com](mailto:porter@dpichicken.com)

O: 302-856-9037, ext. 106 | **Cellular Phone / Ex. 6**

[dpichicken.org](http://dpichicken.org) | [Facebook](#) | [Twitter: @dpichicken](#)

**From:** Holly Porter [<mailto:porter@dpichicken.com>]

**Sent:** Tuesday, January 16, 2018 8:20 PM

**To:** Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>

**Cc:** Bill Satterfield <[Satterfield@dpichicken.com](mailto:Satterfield@dpichicken.com)>

**Subject:** Re: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Kelly

Thank you for the email. I had found this on the website this afternoon. I think the only big thing we still don't know anything about is the streamlined reporting form that was said to be coming. Understanding there is no estimation tool, growers are going to have a hard time determining upper and lower levels as is asked for in the current continuous release form.

Finally we have to continue to share there are a number of growers that don't own computers, or don't have email, or don't have decent broadband in our region, so an email 1st notification should not be the only option for compliance. In November when a few folks tried to call NRC, they were told they had to email.

I'm happy to talk more. I believe I had the chance to meet you once while I was at DDA, but I look forward to working with you more with DPI.

Cellular Phone / Ex. 6

Sent from my iPhone

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 4/3/2018 8:13:02 PM  
**To:** Gilley, Anne [Gilley.anne@epa.gov]  
**Subject:** FW: I have a CERCLA Question - Do you know the answer?

FYI see below. I'm going to call WV directly. K

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

---

**From:** Subramanian, Hema  
**Sent:** Tuesday, April 03, 2018 4:10 PM  
**To:** Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>  
**Subject:** RE: I have a CERCLA Question - Do you know the answer?

Can you call them instead of email for time being? If not, then you can point them to the spots on the website that have public text saying most of what I said in the email below... ("Updates" and "Attention" box for CERCLA exemption, and first Q&A on "Do I need to submit an EPCRA report?")

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Hema Subramanian  
Acting Special Assistant for Agriculture Policy  
Office of the Administrator  
U.S. Environmental Protection Agency  
Washington, DC  
office: [\(202\) 564-5041](tel:(202)564-5041)

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**From:** Shenk, Kelly  
**Sent:** Tuesday, April 03, 2018 4:06 PM  
**To:** Subramanian, Hema <[Subramanian.Hema@epa.gov](mailto:Subramanian.Hema@epa.gov)>  
**Subject:** RE: I have a CERCLA Question - Do you know the answer?

Thanks Hema.

**Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

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**To:** Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>  
**Subject:** RE: I have a CERCLA Question - Do you know the answer?

Thanks Kelly, I'm on the team email chain here which includes talking about this, but appreciate your forwarding in case I hadn't been looped in.

## Deliberative Process / Ex. 5

Clarifying the guidance is a process that is underway/under consideration and will take some clearances...

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Subject: RE: CERCLA Update

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**Office of Emergency Management**  
**U.S. EPA, MailCode 5104A**  
**1200 Pennsylvania Avenue, NW**  
**Washington DC 20004**  
**(202) 564-8019**

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Sent: Tuesday, April 03, 2018 2:28 PM

To: Jacob, Sicy <Jacob.Sicy@epa.gov>

Subject: RE: CERCLA Update

Do you know when this extra clarification will be posted to the website?

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**From:** WEST VIRGINIA POULTRY ASSOCIATION [<mailto:wvpa@hardynet.com>]  
**Sent:** Tuesday, April 03, 2018 9:51 AM  
**To:** Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>  
**Subject:** Re: CERCLA Update

Hi Kelly,

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Please let me know if you have any questions.

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**Deliberative Process / Ex. 5**

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Subject: RE: CERCLA Update

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Message

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**Sent:** 4/3/2018 7:51:47 PM  
**To:** WEST VIRGINIA POULTRY ASSOCIATION [wvpa@hardynet.com]  
**Subject:** RE: CERCLA Update

Hi Cindy, that's a reasonable question to ask! I am working on getting you an answer from our Headquarter's office. Stay tuned!

Kelly Shenk  
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Hi Anne, I'll run this by my HQ contacts to see if they can help speed this along. It's a reasonable question! I'll let you know what I hear back. FYI, I'll be in Philly office on Thursday. Will you be there? If so, let me know where you live and I'll try to stop by to say hi in-between meetings. K

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**Sent:** 1/17/2018 2:45:15 PM  
**To:** clyde.cristman@dcr.virginia.gov  
**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste  
**Attachments:** CERCLA EPCRA Factsheet FINAL.PDF; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf

Hi Clyde! We are sending this email to the new VA Ag Secretary, but I wanted to make sure it got to you as well given that she just started last week! This is in regards to the new air emission reporting requirements. Let me know if you have any questions. K

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- Region III contacts can be found at this site: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Call with questions: 1-800-424-9346

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Let me know if you have any questions/concerns.  
Thank you!

Kelly Shenk

Agriculture Advisor  
EPA Region III Water Protection Division  
shenk.kelly@epa.gov  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403



**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/17/2018 1:41:39 PM  
**To:** Rodrigues, Cecil [rodrigues.cecil@epa.gov]  
**Subject:** Re: Senator Carper - DPI and Air Emission Reporting

OK. I will compile dpi's comments. And it's a great idea to invite Delaware Department of agriculture to attend any call we have.

Kelly Shenk EPA Region 3 Agriculture Advisor  
US EPA Water Protection Division  
[Shenk.kelly@epa.gov](mailto:Shenk.kelly@epa.gov)  
(410) 267 5728

On Jan 17, 2018, at 6:41 AM, Rodrigues, Cecil <[rodrigues.cecil@epa.gov](mailto:rodrigues.cecil@epa.gov)> wrote:

Let's get whatever DPI has prepared.

Should we consider inviting Delaware department of agriculture to the meeting?

Sent from my iPhone

On Jan 16, 2018, at 7:53 PM, Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)> wrote:

Hi Cos and Cecil, a few quick updates:

## Deliberative Process / Ex. 5

worked with Bill Satterfield, DPI Executive Director, for over a decade. I included Bill and his new Assistant Executive Director, Holly Porter, in my mass email distribution of the outreach materials today. Stay tuned. K

\*\*\*

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Thank you!

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EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

<CERCLA EPCRA Factsheet FINAL.PDF>

<CERCLA EPCRA Factsheet FINAL (SPANISH).pdf>

**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/17/2018 12:53:13 AM  
**To:** Servidio, Cosmo [servidio.cosmo@epa.gov]; Rodrigues, Cecil [rodrigues.cecil@epa.gov]  
**CC:** Searfoss, Renee [searfoss.renee@epa.gov]; Purnell, Rhonda [Purnell.rhonda@epa.gov]; Correa, Laura [correa.laura@epa.gov]; Miller, Linda [miller.linda@epa.gov]; Hamilton, Brian [Hamilton.Brian@epa.gov]; schaffer, joan [schaffer.joan@epa.gov]; Michael D'Andrea (DANDREA.MICHAEL@EPA.GOV) [DANDREA.MICHAEL@EPA.GOV]; Dunn, Michael [dunn.michael@epa.gov]; Gilley, Anne [Gilley.anne@epa.gov]; Armstrong, Joan [Armstrong.Joan@epa.gov]; Fields, Jenifer [fields.jenifer@epa.gov]  
**Subject:** Senator Carper - DPI and Air Emission Reporting  
**Attachments:** CERCLA EPCRA Factsheet FINAL.PDF; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf

Hi Cos and Cecil, a few quick updates:

## Deliberative Process / Ex. 5

**Deliberative Process / Ex. 5** | I have worked with Bill Satterfield, DPI Executive Director, for over a decade. I included Bill and his new Assistant Executive Director, Holly Porter, in my mass email distribution of the outreach materials today. Stay tuned. K

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Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:

EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/17/2018 12:13:14 AM  
**To:** kasey.taylor@de.usda.gov; terron.hillsman@md.usda.gov; Denise.Coleman@pa.usda.gov; jack.bricker@va.usda.gov; louis.aspey@wv.usda.gov  
**CC:** Kelly Shenk [Shenk.Kelly@epa.gov]  
**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste  
**Attachments:** CERCLA EPCRA Factsheet FINAL.PDF; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf

Hi NRCS Colleagues,

Attached are factsheets (in English and Spanish) on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and Frequently Asked Questions is to provide an overview and basic information for those who are impacted by this new requirement. If you have any questions, please contact the Environmental Protection Agency via the information provided below:

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[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
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Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/17/2018 12:33:30 AM  
**To:** sakieffer@pfb.com  
**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste  
**Attachments:** CERCLA EPCRA Factsheet FINAL.PDF; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf

Hi Sam, hope you are doing well! Can you forward this email to Rick Ebert and Chris Hoffman and copy me? I want to make sure they get this email and I'd like to have their email addresses so that I can send them additional material when it becomes available. Thanks so much! K

Attached are factsheets (in English and Spanish) on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and Frequently Asked Questions is to provide an overview and basic information for those who are impacted by this new requirement. If you have any questions, please contact the Environmental Protection Agency via the information provided below:

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/17/2018 12:27:08 AM  
**To:** mzm154@psu.edu  
**CC:** Kelly Shenk [Shenk.Kelly@epa.gov]  
**Subject:** FW: EPA factsheets on CERCLA-EPCRA reporting for animal waste  
**Attachments:** CERCLA EPCRA Factsheet FINAL.PDF; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf

Hi Matt, I wanted to make sure you received this information directly. Can you let me know how best to reach PSU extension with this information? Either you can forward to your colleagues or let me know best way to access emails. Thanks! K

Attached are factsheets (in English and Spanish) on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and Frequently Asked Questions is to provide an overview and basic information for those who are impacted by this new requirement. If you have any questions, please contact the Environmental Protection Agency via the information provided below:

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Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

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Annapolis, MD 21403

Message

**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/16/2018 11:19:09 PM  
**To:** schaffer, joan [schafer.joan@epa.gov]  
**Subject:** Re: EPA factsheets on CERCLA-EPCRA reporting for animal waste

# Deliberative Process / Ex. 5

Kelly Shenk EPA Region 3 Agriculture Advisor  
US EPA Water Protection Division  
[Shenk.kelly@epa.gov](mailto:Shenk.kelly@epa.gov)  
(410) 267 5728

On Jan 16, 2018, at 4:54 PM, schaffer, joan <[schafer.joan@epa.gov](mailto:schafer.joan@epa.gov)> wrote:

Kelly -- what are you hearing on your end?

Joan T. Schafer, Senior Advisor  
U.S. Environmental Protection Agency  
Region 3 Office of Communications and Government Relations  
1650 Arch Street  
Philadelphia, PA 19103  
215-814-5143 (ph)  
215-814-5102

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**From:** Grantham, Nancy  
**Sent:** Tuesday, January 16, 2018 4:35 PM  
**To:** Holsman, Marianne <[Holsman.Marianne@epa.gov](mailto:Holsman.Marianne@epa.gov)>  
**Cc:** Regional Public Affairs Directors <[Regional\\_Public\\_Affairs\\_Directors@epa.gov](mailto:Regional_Public_Affairs_Directors@epa.gov)>  
**Subject:** RE: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Regional ag advisors should begin distributing the fact sheet today -- we will send link shortly thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**  
**202-253-7056 (mobile)**

---

**From:** Holsman, Marianne  
**Sent:** Tuesday, January 16, 2018 3:57 PM  
**To:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>  
**Subject:** FW: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Hi. This message is telling ag advisors to begin distributing material today...is that right? I thought you said tomorrow.



Marianne

Follow us!

<image001.png> <image002.png> <image003.png> <image004.png> <image005.png><image006.png>

---

**From:** Peak, Nicholas

**Sent:** Tuesday, January 16, 2018 12:53 PM

**To:** Edmondson, Lucy <Edmondson.Lucy@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Philip, Jeffrey <Philip.Jeff@epa.gov>; MacIntyre, Mark <Macintyre.Mark@epa.gov>; Williams, Erin <Williams.Erin@epa.gov>

**Subject:** FW: EPA factsheets on CERCLA-EPCRA reporting for animal waste

And so it begins...

Nick Peak  
Agriculture Advisor  
EPA, Region 10  
208-378-5765

---

**From:** Subramanian, Hema

**Sent:** Tuesday, January 16, 2018 1:49 PM

**To:** Miller, Amy <Miller.Amy@epa.gov>; Heinemann, Kristina <Heinemann.Kristina@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>; Peak, Nicholas <Peak.Nicholas@epa.gov>; Galloway, Carol <Galloway.Carol@epa.gov>; Dunkins, Robin <Dunkins.Robin@epa.gov>; Pierce, Troy <Pierce.Troy@epa.gov>; Anderson-Carnahan, Linda <Anderson-Carnahan.Linda@epa.gov>; Winn, G. Dean <winn.gerald@epa.gov>; Carbone, Chad <Carbone.Chad@epa.gov>; Edmondson, Lucy <Edmondson.Lucy@epa.gov>; Perrin, Rebecca <Perrin.Rebecca@epa.gov>; Segall, Martha <Segall.Martha@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>; Rea, Anne <Rea.Anne@epa.gov>; Larsen, Erika <Larsen.Erika@epa.gov>; Rush, Randall <Rush.Randall@epa.gov>; Swackhammer, J-Troy <Swackhammer.J-Troy@epa.gov>; Flahive, Katie <Flahive.Katie@epa.gov>; Winnett, Steven <winnett.steven@epa.gov>; Flournoy, Karen <Flournoy.Karen@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Robertson, Duane <Robertson.Duane@epa.gov>; Wirth, Karen <Wirth.Karen@epa.gov>; Sharpe, Kristinn <Sharpe.Kristinn@epa.gov>; Yin, Christina <Yin.Christina@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Nitsch, Chad <Nitsch.Chad@epa.gov>; Culver, Edison <culver.edison@epa.gov>; Gill, Sonam <Gill.Sonam@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>; Mitschele, Becky <Mitschele.Becky@epa.gov>; Staniec, Carol <staniec.carol@epa.gov>

**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste

EPA Ag Advisors/POCS:

Attached are factsheets (in English and Spanish) from OEM on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. These are final and ready to go public, your offices will likely be receiving them through OPA and other channels shortly. Please distribute to your networks for outreach. Here is some stock language (with contact info) that can be inserted in emails:

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and FAQs is to provide an overview and basic information for those who are impacted by this new requirement.

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- Regional Contacts: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Call with questions: 1-800-424-9346

For those with listservs or issues with forwarding attachments, OEM is working on a weblink to send out soon. A PSA is expected to be released to ag radio networks later today, and an online toolkit with other outreach materials will also be out soon. For the time being, feel free to share this factsheet with any contacts who may field questions from farmers once the PSA airs.

Thank you,  
---Hema.

-----  
Hema Subramanian  
Special Assistant to the Senior Advisor for Agriculture (detail)  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/17/2018 12:23:01 AM  
**To:** cartanza@udel.edu  
**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste  
**Attachments:** CERCLA EPCRA Factsheet FINAL.PDF; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf

Hi Georgie! See below for a mass email I am sending to all of our ag stakeholders. Please distribute widely and let me know if there are key groups to make sure to send this to. I'll be in the office tomorrow if you'd like to discuss. K

Attached are factsheets (in English and Spanish) on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and Frequently Asked Questions is to provide an overview and basic information for those who are impacted by this new requirement. If you have any questions, please contact the Environmental Protection Agency via the information provided below:

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Let me know if you have any questions/concerns.  
Thank you!

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/17/2018 12:17:08 AM  
**To:** Loretta Collins [lcollins@chesapeakebay.net]  
**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste  
**Attachments:** CERCLA EPCRA Factsheet FINAL.PDF; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf

Loretta, can you please send this important and timely information to the CBP Ag Workgroup? Thank you so much! K

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

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410 Severn Avenue, Suite 112  
Annapolis, MD 21403

---

**From:** Shenk, Kelly  
**Sent:** Tuesday, January 16, 2018 7:09 PM  
**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste

Attached are factsheets (in English and Spanish) on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and Frequently Asked Questions is to provide an overview and basic information for those who are impacted by this new requirement. If you have any questions, please contact the Environmental Protection Agency via the information provided below:

- Visit [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) for guidance and access to the continuous release reporting forms
- Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- Region III contacts can be found at this site: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Call with questions: 1-800-424-9346

The factsheets are also available on the CERCLA/EPCRA website. A link is available at the top of the page: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) or you can link to the factsheets directly at <https://www.epa.gov/epcra/fact-sheet-cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal>.

A public service announcement is expected to be released to ag radio networks later today, and an online toolkit with other outreach materials will also be out soon. For the time being, feel free to share this factsheet with any contacts who may field questions from farmers once the public service announcement airs.

Let me know if you have any questions/concerns.  
Thank you!

Kelly Shenk  
Agriculture Advisor

EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
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Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/17/2018 12:14:56 AM  
**To:** Michele Drostin [michele@greenfinstudio.com]; paula Jasinski [paula@chesapeake-data.com]  
**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste  
**Attachments:** CERCLA EPCRA Factsheet FINAL.PDF; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf

Hi Paula and Michele, can you please forward this important and timely information to the full DLLC membership? Thank you so much! K

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

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**From:** Shenk, Kelly  
**Sent:** Tuesday, January 16, 2018 7:09 PM  
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Let me know if you have any questions/concerns.  
Thank you!

Kelly Shenk

Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

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410 Severn Avenue, Suite 112  
Annapolis, MD 21403

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 12/8/2017 4:01:54 PM  
**To:** Dunn, Michael [dunn.michael@epa.gov]; Armstrong, Joan [Armstrong.Joan@epa.gov]; Gilley, Anne [Gilley.anne@epa.gov]  
**Subject:** Hattons air question

Mike the question that Joe Hatton asked is one that is asked often in region eight. I asked my fellow advisor in Colorado if she had a response. And here's what she emailed me. Looks like this is a tough one to answer.

Kelly Shenk EPA Region 3 Agriculture Advisor  
US EPA Water Protection Division  
[Shenk.kelly@epa.gov](mailto:Shenk.kelly@epa.gov)  
(410) 267 5728

Begin forwarded message:

**From:** "Perrin, Rebecca" <[Perrin.Rebecca@epa.gov](mailto:Perrin.Rebecca@epa.gov)>  
**Date:** December 8, 2017 at 10:31:08 AM EST  
**To:** "Shenk, Kelly" <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>  
**Subject:** RE: Do you know the answer to this?

Kelly,

I don't have an answer to that question. I have asked it. The tools available on our website help farmers to calculate emissions from a variety of different sources, but those sources are predominately found in feedlot operations. Our website does not offer tools for grazing systems. Truthfully, I do not know if any even exist. I do not know if any research has ever been done to figure that out. I continue to ask HQ about this but no answer as of yet. The answer I have been giving folks is that I have asked HQ and do not have an answer yet. I encourage farmers to email the CERCLA email with those questions to help create a record of the need. Call if questions.

Rebecca Perrin  
Region 8 Agriculture Advisor | Office of the Regional Administrator | USEPA  
1595 Wynkoop Street | Denver CO 80202 | DL: 303-312-6311 | FAX: 303-312-6882

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**From:** Shenk, Kelly  
**Sent:** Friday, December 08, 2017 4:13 AM  
**To:** Perrin, Rebecca <[Perrin.Rebecca@epa.gov](mailto:Perrin.Rebecca@epa.gov)>  
**Subject:** Do you know the answer to this?

Hi Rebecca. I know you've been dealing with similar questions as the one below. My regional folks are preparing a response today. I thought I better check in with you to see if you have any insights so that we stay consistent with our responses across the country where possible and where relevant. Hope all is well there!



Kelly Shenk EPA Region 3 Agriculture Advisor  
US EPA Water Protection Division  
[Shenk.kelly@epa.gov](mailto:Shenk.kelly@epa.gov)  
(410) 267 5728

**From:** "Hatton, Joseph" <[jhatton@wvda.us](mailto:jhatton@wvda.us)>  
**Date:** December 6, 2017 at 11:07:35 PM EST  
**To:** "[rodrigues.cecil@epa.gov](mailto:rodrigues.cecil@epa.gov)" <[rodrigues.cecil@epa.gov](mailto:rodrigues.cecil@epa.gov)>  
**Subject:** EPA Air quality reg

Cecil

I am not locating information I think is important for most of my farmers. In your comments below you are asking all farmers who have livestock in grazing systems to report a reportable release. The information sheets located at the below web portal only provide a sheet requesting the location of the "release". Where will I find the specific substances you want reported and how a farmer is to determine the "release" meets the epa level requiring a notification.

Thanks  
Joe

"For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and aggregate the quantities released for the facility. "

From: Rodrigues, Cecil  
Sent: Tuesday, December 5, 5:41 PM  
Subject: EPCRA/CERLCA air emissions reporting requirements  
To: Hostetter,  
[Gregory,michael.scuse@state.de.us](mailto:Gregory,michael.scuse@state.de.us), [joe.bartenfelder@maryland.gov](mailto:joe.bartenfelder@maryland.gov),  
[y, Redding](mailto:y,Redding),  
[Russell,basil.gooden@governor.virginia.gov](mailto:Russell,basil.gooden@governor.virginia.gov), [kleonhardt@wvda.us](mailto:kleonhardt@wvda.us),  
[s, Jennings](mailto:s,Jennings), Kim, Armstrong, Joan, Dunn, Michael, Melvin, Karen,  
Gilley, Anne, Lewis, Jacqueline, Shenk,  
[Kelly,austin.short@state.de.us](mailto:Kelly,austin.short@state.de.us), [kenneth.bounds@state.de.us](mailto:kenneth.bounds@state.de.us), [mega n.seibel@governor.virginia.gov](mailto:mega n.seibel@governor.virginia.gov)

Cc: [lisa.wildermuth@state.de.us](mailto:lisa.wildermuth@state.de.us), [deborah.proud@maryland.gov](mailto:deborah.proud@maryland.gov), McCrone, Nicole D, [desire.branch-ellis@governor.virginia.gov](mailto:desire.branch-ellis@governor.virginia.gov), [rgothard@wvda.us](mailto:rgothard@wvda.us), Reames, Lindsay (GOV), Brown, Karl, Gioffre, Patricia, D'Andrea, Michael, schaffer, joan, Miller, Linda, White, Terri-A

All, I wanted to make sure you are aware of the following updates regarding the EPCRA/CERLCA air emissions reporting requirements.

Streamlined Form for Farmers - EPA published in today's Federal Register (FR) a notice that solicits comments from the public on a draft streamlined reporting form for farmers. The **comment period ends 12/15/17**. The form is not attached to the FR notice, but can be found in the associated docket folder at <https://www.regulations.gov/docket?D=EPA-HQ-SFUND-2007-0469>. It is multi-page and uploaded to the site as three separate files.

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Two additional Frequently Asked Questions have been added to the website. They can be found at the following link and are pasted below. Link: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms#FrequentQuestions>

**Do farms that have cattle that reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?**

Yes. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and aggregate the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

**If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?**

No. For those farmers who have already made their initial continuous release notification, the farmer may wait to submit the written report until the court issues the mandate. Within 30 days of

the court mandate, the farmer must submit a written report to the EPA regional office. No additional call or email to the NRC is required.

I will continue to keep let you know when we hear of other updates as they become available. Please call me if you have any questions or you or your staff can contact Joan Armstrong, Associate Director, Office of Enforcement, Hazardous Site Cleanup Division, at [Armstrong.joan@epa.gov](mailto:Armstrong.joan@epa.gov) or [215.814.3155](tel:215.814.3155) or Mike Dunn, Chief of the Oil and Prevention Branch at [dunn.michael@epa.gov](mailto:dunn.michael@epa.gov) or [215.814.2712](tel:215.814.2712).

Thanks. Cecil  
Cecil Rodrigues  
Deputy Regional Administrator  
EPA Region III (3RA00)  
[1650 Arch Street](#)  
[Philadelphia, PA 19103](#)  
[215.814.2683](tel:215.814.2683)  
IPhone:[215.266.2960](tel:215.266.2960)

Joseph L. Hatton  
Deputy Commissioner  
WV Department of Agriculture  
[304.558.3200](tel:304.558.3200)

Sent from my iPhone

Message

---

**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 12/7/2017 3:24:52 PM  
**To:** Armstrong, Joan [Armstrong.Joan@epa.gov]; Rodrigues, Cecil [rodrigues.cecil@epa.gov]; Dunn, Michael [dunn.michael@epa.gov]  
**Subject:** RE: EPA Air quality reg

Perfect! K

Kelly Shenk  
Agricultural Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

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**From:** Armstrong, Joan  
**Sent:** Thursday, December 07, 2017 10:24 AM  
**To:** Rodrigues, Cecil <rodrigues.cecil@epa.gov>; Dunn, Michael <dunn.michael@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>  
**Subject:** RE: EPA Air quality reg

Mike is on Annual leave for the next few days. I already have Anne working on it and we will get back to Joe and copy you and Kelly on response.

Joan

***Joan Armstrong***  
U.S. Environmental Protection Agency  
Hazardous Site Cleanup Division  
Office of Enforcement  
1650 Arch Street, Mailcode 3HS60  
Philadelphia, PA 19103  
215-814-3155  
[armstrong.joan@epa.gov](mailto:armstrong.joan@epa.gov)

---

**From:** Rodrigues, Cecil  
**Sent:** Thursday, December 07, 2017 10:18 AM  
**To:** Dunn, Michael <dunn.michael@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>  
**Subject:** Fwd: EPA Air quality reg

Mike please see question below. Please look into it and get back to Joe.

Sent from my iPhone

Begin forwarded message:

**From:** "Hatton, Joseph" <jhatton@wvda.us>  
**Date:** December 6, 2017 at 11:07:35 PM EST  
**To:** "rodrigues.cecil@epa.gov" <rodrigues.cecil@epa.gov>  
**Subject:** EPA Air quality reg

Cecil

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Sent: Tuesday, December 5, 5:41 PM  
Subject: EPCRA/CERLCA air emissions reporting requirements  
To: Hostetter, Gregory, michael.scuse@state.de.us, joe.bartenfelder@maryland.gov, Redding, Russell, basil.gooden@governor.virginia.gov, kleonhardt@wvda.us, Jennings, Kim, Armstrong, Joan, Dunn, Michael, Melvin, Karen, Gilley, Anne, Lewis, Jacqueline, Shenk, Kelly, austin.short@state.de.us, kenneth.bounds@state.de.us, megan.seibel@governor.virginia.gov  
Cc: lisa.wildermuth@state.de.us, deborah.proud@maryland.gov, McCrone, Nicole D, desire.branch-ellis@governor.virginia.gov, rgothard@wvda.us, Reames, Lindsay (GOV), Brown, Karl, Gioffre, Patricia, D'Andrea, Michael, schaffer, joan, Miller, Linda, White, Terri-A

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Thanks. Cecil  
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Joseph L. Hatton  
Deputy Commissioner  
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Sent from my iPhone

Message

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**Sent:** 12/6/2017 9:15:16 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]  
**Subject:** RE: What do you think of this EPCRA/CERCLA bullet

I didn't get it directly, but fortunately my regional folks are keeping me in the loop. Here it is.

**From:** Gioffre, Patricia

**Sent:** Tuesday, December 05, 2017 10:56 AM

**To:** Haas, Craig <Haas.Craig@epa.gov>; Brown, Deborah <Brown.Deborah@epa.gov>; Chin, William <chin.bill@epa.gov>; Gaffey, Jim <Gaffey.Jim@epa.gov>; O'Donnell, Mary Jane <Odonnell.Maryjane@epa.gov>; Peavey, Dwight <Peavey.Dwight@epa.gov>; Rascher, Chris <rascher.chris@epa.gov>; Smith, Catherine <smith.catherine@epa.gov>; Wallace, Leonard <Wallace.Len@epa.gov>; Gallagher, Shirin <Gallagher.Shirin@epa.gov>; Garcia, Terry <Garcia.Terry@epa.gov>; Hales, Bob <Hales.Bob@epa.gov>; Hartman, Bob <Hartman.Bob@epa.gov>; Leefers, Kristin <Leefers.Kristin@epa.gov>; LeGreid, Kathleen <LeGreid.Kathleen@epa.gov>; Magdangal, David <magdangal.david@epa.gov>; Mairs, Stephanie <Mairs.Stephanie@epa.gov>; McFadden, Kelly <McFadden.Kelly@epa.gov>; Meinhardt, Danielle <meinhardt.danielle@epa.gov>; Morales, Javier <Morales.Javier@epa.gov>; Phillips, Peter <Phillips.Peter@epa.gov>; Vergeront, Julie <Vergeront.Julie@epa.gov>; Williams, Erin <Williams.Erin@epa.gov>; Banner, Ellen <Banner.Ellen@epa.gov>; Dholakia, Umesh <Dholakia.Umesh@epa.gov>; Ghaffari, Mozafar <Ghaffari.Mozafar@epa.gov>; Harrington, Dwayne <Harrington.Dwayne@epa.gov>; Leung, Chao <Leung.Chao@epa.gov>; Maimone, Francesco <Maimone.Francesco@epa.gov>; Mosher, Eric <Mosher.Eric@epa.gov>; Ouedraogo, Idrissa <ouedraogo.idrissa@epa.gov>; Petty, Joel <petty.joel@epa.gov>; Regna, Jean <Regna.Jean@epa.gov>; Rivera, Carlos <Rivera.Carlos@epa.gov>; Rodriguez, Nancy <Rodriguez.Nancy@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>; Baginski, Alfred <Baginski.Alfred@epa.gov>; Beckley, Patrick <Beckley.Patrick@epa.gov>; Daniel, Kevin <Daniel.Kevin@epa.gov>; Dunn, Michael <dunn.michael@epa.gov>; Gallagher, Theresa <gallagher.theresa@epa.gov>; Garcia, Jefferie <Garcia.Jefferie@epa.gov>; Gardner, Allison <Gardner.Allison@epa.gov>; Gilley, Anne <Gilley.anne@epa.gov>; Hunt, Mary <Hunt.Mary@epa.gov>; Nilsen, Ashley <Nilsen.Ashley@epa.gov>; pandya, perry <pandya.perry@epa.gov>; Parent, Suzanne <Parent.Suzanne@epa.gov>; VanOrden, James <VanOrden.James@epa.gov>; Weiss, Cynthia <Weiss.Cynthia@epa.gov>; Welsh, Mike <Welsh.Mike@epa.gov>; Ziegler, Lauren <Ziegler.Lauren@epa.gov>; Bookman, Robert <Bookman.Robert@epa.gov>; Caplan, Robert W. <Caplan.Robert@epa.gov>; Chow, Eddie <Chow.Eddie@epa.gov>; Cobb, Brandon <cobb.brandon@epa.gov>; Crum, Lynda <Crum.Lynda@epa.gov>; Devkota, Om <devkota.om@epa.gov>; Fite, Mark <Fite.Mark@epa.gov>; Grant, Deanne <Grant.Deanne@epa.gov>; Groendyke, Todd <Groendyke.Todd@epa.gov>; Juan, Rodolfo <Juan.Rodolfo@epa.gov>; Kono, Michiko <Kono.Michiko@epa.gov>; Noles, Jordan <Noles.Jordan@epa.gov>; Nowell, Valerie <Nowell.Valerie@epa.gov>; 'Platt, Kerry' <Platt.Kerry@epa.gov>; Poole, Vinson <Poole.Vinson@epa.gov>; Refuge, Danielle <Refuge.Danielle@epa.gov>; Rouch, Ellen <Rouch.Ellen@epa.gov>; Rubini, Suzanne <Rubini.Suzanne@epa.gov>; Russo, Todd <Russo.Todd@epa.gov>; Spagg, Beverly <Spagg.Beverly@epa.gov>; Toney, Anthony <Toney.Anthony@epa.gov>; Warrilow, Phyllis <Warrilow.Phyllis@epa.gov>; Weeks, Victor <weeks.victor@epa.gov>; White, Erika <White.Erika@epa.gov>; Bezerra, Joana <bezerra.joana@epa.gov>; Chomycia, Greg <chomycia.greg@epa.gov>; Chrzaszcz, Monika <chrzaszcz.monika@epa.gov>; Entzminger, James <entzminger.james@epa.gov>; Hans, Mick <hans.mick@epa.gov>; Jager, Ginger <jager.ginger@epa.gov>; Kaiser, Steven <kaiser.steven@epa.gov>; Mayhugh, Robert <mayhugh.robert@epa.gov>; Moore, Cecilia <moore.cecilia@epa.gov>; Palomo, Silvia <palomo.silvia@epa.gov>; Riley, Ellen <riley.ellen@epa.gov>; Smith, Robert H <smith.roberth@epa.gov>; Wagner, William <wagner.william@epa.gov>; Barra, Michael <barra.michael@epa.gov>; Clay, Jeffrey <clay.jeffrey@epa.gov>; Ford, Debbie <Ford.Debbie@epa.gov>; Foster, Althea <Foster.Althea@epa.gov>; Hodges, Angela <Hodges.Angela@epa.gov>; Howard, AshleyA <Howard.AshleyA@epa.gov>; Mason, Steve

<mason.steve@epa.gov>; Moore, Nathaniel <Moore.Nathaniel@epa.gov>; Murdock, James <Murdock.James@epa.gov>; Pearson, Evan <Pearson.Evan@epa.gov>; Phelps, Sherronda <Phelps.Sherronda@epa.gov>; Robledo, Tony <Robledo.Tony@epa.gov>; Rogers, Elizabeth <rogers.elizabeth@epa.gov>; Smalley, Bryant <smalley.bryant@epa.gov>; Smith, Monica <smith.monica@epa.gov>; Stucky, Marie <Stucky.Marie@epa.gov>; Tate, Samuel <Tate.Samuel@epa.gov>; Thompson, Steve <thompson.steve@epa.gov>; Trawick, Matthew <Trawick.Matthew@epa.gov>; Ward, Misty <ward.misty@epa.gov>; Bieri, Britt <bieri.britt@epa.gov>; Blunk, Terri <Blunk.Terri@epa.gov>; Bosch, Raymond <Bosch.Raymond@epa.gov>; Brewer, Laura <brewer.laura@epa.gov>; Bunch, Howard <Bunch.Howard@epa.gov>; Harper, Jodi <Harper.Jodi@epa.gov>; Hayes, Scott <Hayes.Scott@epa.gov>; Hensley, Dave <Hensley.Dave@epa.gov>; Hoard, Christine <Hoard.Christine@epa.gov>; LaBoda, Sarah <LaBoda.Sarah@epa.gov>; Mills, Clarissa <mills.clarissa@epa.gov>; Ndiaye, Fatimatou <Ndiaye.Fatimatou@epa.gov>; Pessetto, Jared <Pessetto.Jared@epa.gov>; Reitz, Katherine <reitz.katherine@epa.gov>; Reitz, Patricia <Reitz.Patricia@epa.gov>; Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>; Stotts, Krystal <Stotts.Krystal@epa.gov>; Trotter, Jennifer <Trotter.Jennifer@epa.gov>; Weekley, Erin <weekley.erin@epa.gov>; Whisnant, Amber <Whisnant.Amber@epa.gov>; Atencio, Kathie <Atencio.Kathie@epa.gov>; Bockstahler, Breann <Bockstahler.breann@epa.gov>; Broussard, Rebecca <Broussard.Rebecca@epa.gov>; Chavez, Luke <Chavez.Luke@epa.gov>; Cobb, David <cobb.david@epa.gov>; Meyer, Jeff <Meyer.Jeff@epa.gov>; Ramirez, Steven A <ramirez.stevena@epa.gov>; Reed, Lori <Reed.Lori@epa.gov>; Robinson, Janis <Robinson.Janis@epa.gov>; Weiner, Marc <Weiner.Marc@epa.gov>; Bazley, Greg <Bazley.Greg@epa.gov>; Berg, Elizabeth <Berg.Elizabeth@epa.gov>; BERMAN, TESSA <Berman.Tessa@epa.gov>; Deyoe, Jeremy <deyoe.jeremy@epa.gov>; Gallo, Madeline <Gallo.Madeline@epa.gov>; Henry, Karen <Henry.Karen@EPA.GOV>; Johnstone, Jeremy <Johnstone.Jeremy@epa.gov>; Jones, Bill <jones.bill@epa.gov>; Lawrence, Kathryn <Lawrence.Kathryn@epa.gov>; Lucas, Robert <Lucas.Robert@epa.gov>; Moore, Letitia <Moore.Letitia@epa.gov>; Nixon, Donald <Nixon.Donald@epa.gov>; Proboszcz, Angie <Proboszcz.Angie@EPA.GOV>; Rongone, Marie <Rongone.Marie@epa.gov>; Steiner, Cynthia <Steiner.Cynthia@epa.gov>; Wirtschafter, Joshua <Wirtschafter.Joshua@epa.gov>; Averback, Jonathan <Averback.Jonathan@epa.gov>; Belke, Jim <Belke.Jim@epa.gov>; Bosecker, Elizabeth <Bosecker.Elizabeth@epa.gov>; Brown, Stephanie <Brown.Stephanie@epa.gov>; Burnett, Michael <Burnett.Michael@epa.gov>; Dixon, Chelsea <Dixon.Chelsea@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Garvey, Mark <Garvey.Mark@epa.gov>; Gerardin, Margaret <Gerardin.Margaret@epa.gov>; Hunt, Stuart <Hunt.Stuart@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mears, Gilbert <Mears.Gilbert@epa.gov>; Miles, James <miles.james@epa.gov>; Presler, Amos <presler.amos@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Santacrose, Jeffrey <Santacrose.Jeffrey@epa.gov>; Seltzer, Mark <Seltzer.Mark@epa.gov>; Skinner-Thompson, Jonathan <Skinner-Thompson.Jonathan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Tekrony, Linda <Tekrony.Linda@epa.gov>; Varco, Joseph <varco.joseph@epa.gov>; Yonce, Stacey <yonce.stacey@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>  
**Cc:** Mortensen, Ginah <mortensen.ginah@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Hull, George <Hull.George@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>  
**Subject:** Update: CERCLA/EPCRA Ag issues 12/5

Now that the DC Circuit Court has delayed issuing the mandate on the CERCLA/EPCRA exemption vacatur, we have more time to update the guidance and answer the multitude of questions that have been raised. Specifically, I want to update you on our plans to revise the guidance on the website and to develop a streamlined continuous release report for farms. At the end of the email, I'll address next steps on managing initial continuous release notification emails and written reports.

#### Website revisions

EPA requested comments from the public on the website through November 24<sup>th</sup>. Thus far, EPA received emailed comments from 23 different groups/individuals. We will continue to accept comments on the site because we view it as an "evergreen" product and want to continue to strive to improve our guidance and outreach materials. As a result, we will make ongoing updates to the website and make every effort to send out timely updates as these changes are made.

We updated the website with the following two frequently asked questions/answers.



**New** Do farms that have cattle that reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?

Yes. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and aggregate the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

**New** If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?

No. For those farmers who have already made their initial continuous release notification, the farmer may wait to submit the written report until the court issues the mandate. Within 30 days of the court mandate, the farmer must submit a written report to the EPA regional office. No additional call or email to the NRC is required.

Next steps: OEM is reviewing the website comments to identify issues that require further clarification on the website. We will develop a schedule to continue to update the website. We also ask that you continue to share the questions you are getting from farmers with us so that we can address those issues as well.

#### **Streamlined Form for Farmers**

EPA has submitted an emergency package to OMB for review under the Paperwork Reduction Act requirements. The package includes the information collection request (ICR) and a draft streamlined form. As part of the review process, EPA published in today's Federal Register (FR) a notice that solicits comments on the form from the public. The comment period is only 10 days (ends December 15<sup>th</sup>) in order to turn this form around quickly.

#### **Initial Continuous Release Notifications**

Finally, we know that many of you have questions on the process set up for initial continuous release notifications. We worked with the NRC to allow farmers to email notifications rather than call the NRC (due to the overwhelming number of callers). We are still working on how to manage the emails that we have received and how to manage the continuous release reports that the regions will/have received. We will set up a call in early January with the regions to discuss approaches to manage this information. As part of that discussion, we will also discuss privacy concerns that have been raised by farmers. OEM has been working with OGC on how EPA can protect personally identifiable information submitted on reports when we respond to FOIAs.

That's all for now.

Best wishes!

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Patty Gioffre  
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Washington, DC 20460  
202-564-1972  
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**From:** Brennan, Ross  
**Sent:** Wednesday, December 06, 2017 3:34 PM  
**To:** Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Subramanian, Hema <[Subramanian.Hema@epa.gov](mailto:Subramanian.Hema@epa.gov)>  
**Subject:** RE: What do you think of this EPCRA/CERCLA bullet

So for purposes of Andrew's weekly I'm going to distill this into something like, "Um, guidance and tools are still under development."

But I will copy this into my notes as an excellent reference. (Do you mind sharing the 12/5 email? I don't think I got it)

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Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

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**From:** Shenk, Kelly  
**Sent:** Wednesday, December 06, 2017 1:44 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Subramanian, Hema <[Subramanian.Hema@epa.gov](mailto:Subramanian.Hema@epa.gov)>  
**Subject:** RE: What do you think of this EPCRA/CERCLA bullet

Fine. Based on OEM's 12/5 update email, you may want to include these important points as well.

- Streamlined Form for Farmers - EPA published [in the 12/5 Federal Register \(FR\)](#) a notice that solicits comments from the public on a draft streamlined reporting form for farmers. The **comment period ends 12/15/17**. The form is not attached to the FR notice, but can be found in the associated docket folder at <https://www.regulations.gov/docket?D=EPA-HQ-SFUND-2007-0469>. It is multi-page and uploaded to the site as three separate files.
  - EPA continues to accept comments from the public on the [guidance website](#). HQ makes improvements to the site based, in part, on these comments.
1. Two additional Frequently Asked Questions have been added to the website. They can be found at the following link and are pasted below. Link: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms#FrequentQuestions>
- **Do farms that have cattle that reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?**  
Yes. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each

source, and aggregate the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

- **If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?**

No. For those farmers who have already made their initial continuous release notification, the farmer may wait to submit the written report until the court issues the mandate. Within 30 days of the court mandate, the farmer must submit a written report to the EPA regional office. No additional call or email to the NRC is required.

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**From:** Brennan, Ross  
**Sent:** Wednesday, December 06, 2017 1:39 PM  
**To:** Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Subramanian, Hema <[Subramanian.Hema@epa.gov](mailto:Subramanian.Hema@epa.gov)>  
**Subject:** What do you think of this EPCRA/CERCLA bullet

I don't think the weekly for Andrew has included a reference to the revised EPCRA/CERCLA deadline. How does this bullet look?

- The DC Circuit Court of Appeals has extended the deadline for farmers to report air releases of hazardous substances from animal waste at livestock operations (under the "EPCRA/CERCLA rule") until January 22, 2018. Ag producers, including AADG members, have been following this issue closely and communicating with EPA's Regional ag advisors.

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Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 11/27/2017 4:59:42 PM  
**To:** Dunn, Michael [dunn.michael@epa.gov]  
**Subject:** RE: Update #3 for Today: CERCLA/EPCRA Ag issues

Thanks for the updates last week, Michael! K

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**From:** Dunn, Michael  
**Sent:** Wednesday, November 22, 2017 4:38 PM  
**To:** Rodrigues, Cecil <[rodrigues.cecil@epa.gov](mailto:rodrigues.cecil@epa.gov)>; Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>; Armstrong, Joan <[Armstrong.Joan@epa.gov](mailto:Armstrong.Joan@epa.gov)>; Melvin, Karen <[Melvin.Karen@epa.gov](mailto:Melvin.Karen@epa.gov)>; Gilley, Anne <[Gilley.anne@epa.gov](mailto:Gilley.anne@epa.gov)>  
**Subject:** Fwd: Update #3 for Today: CERCLA/EPCRA Ag issues

I hope this is the last one today!

Sent from my iPhone

Begin forwarded message:

**From:** "Gioffre, Patricia" <[Gioffre.Patricia@epa.gov](mailto:Gioffre.Patricia@epa.gov)>  
**Date:** November 22, 2017 at 3:02:34 PM EST  
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**Subject: RE: Update #3 for Today: CERCLA/EPCRA Ag issues**

Last update for the day!

OEM updated the CERCLA EPCRA website to include the following information in the Red Alert Box:

NEW! On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018.

Farms with continuous releases do not have to submit their initial continuous release notification until the DC Circuit Court of Appeals issues its order, or mandate, enforcing the Court's opinion of April 11, 2017. No reporting is necessary until the mandate is issued.

To expedite your initial continuous release notification to the National Response Center, you may use the temporary email option. This option avoids potential large call volumes and delays. It allows one email notification for owners/operators with multiple farms.

<https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

Best wishes!

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**Subject:** Update #2 for Today: CERCLA/EPCRA Ag issues

Good news! The DC circuit granted our motion to further extend the mandate until January 22, 2018.

OEM is working to update the EPA website to communicate the extension. Making you all aware as well.

Best wishes! Have a safe and Happy Thanksgiving.

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US EPA/OLEM/OEM  
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**Sent:** Wednesday, November 22, 2017 11:47 AM

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**Subject:** Update: CERCLA/EPCRA Ag issues

Hello all-

Sharing with you a one-page briefing document that was prepared for the Administrator on the CERCLA/EPCRA reporting requirements for farms. This is an internal document and not meant for distribution.

As of this time, the DC Circuit Court has not issued the mandate that vacates the 2008 final rule. Therefore, farmers are still not required to report. We will send an update again next week as new information becomes available.

If you have any questions, please let me know.

Best wishes and have a safe and Happy Thanksgiving weekend!

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**Subject:** IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Hi all,

I know that there has been a lot of frustration with ensuring that regional staff receive timely communications on the CERCLA EPCRA requirements for farmers. Activities on this issue have rapidly evolved and as a result, you have received information from external stakeholders or others within the Agency (rather than from OEM staff). We will make it a priority to do better moving forward, beginning with weekly updates. OEM will also send additional emails to communicate changes to the website or availability of other materials as quickly as we can.

With that said, let me take a moment to thank you all for your communication efforts thus far with ag stakeholders. I am sure you have spent a lot of time answering questions and listening to complaints from farmers. I know that it can be difficult being on the front lines of these interactions and I appreciate the time and effort you have taken to provide this customer service to our stakeholders. Please continue to answer these questions and encourage stakeholders to submit their questions to [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov). The website is evergreen, and therefore, we will continue to consider comments to that email address after the 24<sup>th</sup> of this month.

Last week, OEM made several revisions to the website to address the overwhelming number of calls to the NRC from farmers making initial continuous release notifications. These changes happened rapidly, and in coordination with attorneys in OGC, to let farmers know that an email could substitute for a call to the NRC. Farmers (or their representatives) that send an email receive an automated response with the same CR-ERNS number to document the call. OEM will work with the regions to set up a system to manage these emails. So far, we have received approx. 2,400 emails. There could be multiple farms reported in some of these emails.

At this time, the NRC is not accepting calls from farmers who want to report an initial continuous release notification. OEM continues to work with the NRC to find a solution that allows farmers with no access to email to be able to make their initial notification without overwhelming the NRC duty officers. As we make progress working with the NRC, we will send out email updates.

At this time, farms are not yet required to comply with CERCLA/EPCRA reporting requirements. Once the DC circuit court issues the mandate that vacates the 2008 rule farms will once again be subject to the reporting requirements. We will send an update to you once we get news of an expected date the court will issue the mandate, and OEM will update the website.

Finally, I know you all are getting lots of questions from farmers. I want to include a couple of Q&As in this email that you can share with farmers when you speak with them. We intend to update the website with these Q&As as well as others.

**Q. Do farms that have cattle reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?**

A: Yes. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and aggregate the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

**Q. If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?**

A: No. For those farmers who have already made their initial continuous release notification, the farmer should wait to submit the written report until the court issues the mandate. Within 30 days of the court mandate, the farmer must submit a written report to the EPA regional office. No additional call or email to the NRC is required.

If you have questions or concerns, please don't hesitate to contact us in OEM. You can call or email me or Sicy Jacob can be reached at 202-564-8019 and Patty Gioffre at 202-564-1972.

Kim

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**From:** Jennings, Kim

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**Subject:** IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Hi all (sorry if some of you are getting this twice),

I wanted to update on the EPCRA/CERCLA Ag issue. As you know, on April 11, 2017, the Court struck down the EPCRA/CERCLA final rule, eliminating the reporting exemptions for farms. Unless the DC Circuit Court takes further action, the court's ruling takes effect on **November 15, 2017**. Several weeks ago, EPA provided guidance materials to help farmers understand their reporting obligations and, that guidance for farm owners/operators on our website at: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>. The website includes FAQs on CERCLA and EPCRA reporting and instructions on how to submit continuous release reports. As a result, farmers are now calling the NRC to make an initial continuous release notification.

Several issues have arisen related to farmer owners/operators making their initial continuous release notification to the National Response Center (NRC). First, the NRC is experiencing a large volume of calls, which have the potential to overwhelm their capacity. Second, the automated system the NRC uses to ensure release notifications get to the appropriate Federal, State, and local response officials, has resulted in some State and local officials calling the farm owners/operators to get more information about the release they reported and what response is needed. In order to resolve these issues, EPA has been working with the NRC program officials and made the following changes:

- The NRC has established an e-mail notification system so farm owners/operators can email their continuous release reports to the NRC, as an alternative to calling the NRC. Farmers who have multiple farms can list the name and location of all farms, as well as the associated name(s) of hazardous substance(s) released, in one e-mail. Please encourage farmers to use this e-mail option to provide the National Response Center (NRC) with their initial continuous release notification. The NRC e-mail address is: [NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil). Alternatively, the NRC phone number for these notifications is: 1-800-424-8802.
- Once the email is received by the NRC e-mail notification system, it will generate an automatic response e-mail with a generic identification number (CR-ERNS) for the farm (note: this number will be the same for all farm owners/operators who provide their initial notification to the NRC via email). The farm owner/operator will place that CR-ERNS number on the follow-up written notification report that is required to be submitted to the



EPA Regional Office within 30 days. Therefore, on or around December 15, 2017, all EPA Regional offices will be receiving a large number of written continuous release reports from farm owners/operators.

Regarding the factsheet or “cheat sheet” that was developed to provide compliance assistance to farmers who may soon need to report air release from animal waste under the CERCLA section 103, EPA is working on revising that document to include the above information and will get that out to you as soon as we can.

Thanks,  
Kim

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Ellen <riley.ellen@epa.gov>; Smith, Robert H <smith.roberth@epa.gov>; Wagner, William <wagner.william@epa.gov>; Barra, Michael <barra.michael@epa.gov>; Clay, Jeffrey <clay.jeffrey@epa.gov>; Ford, Debbie <Ford.Debbie@epa.gov>; Foster, Althea <foster.althea@epa.gov>; Hodges, Angela <Hodges.Angela@epa.gov>; Howard, AshleyA <Howard.AshleyA@epa.gov>; Mason, Steve <mason.steve@epa.gov>; Moore, Nathaniel <Moore.Nathaniel@epa.gov>; Murdock, James <Murdock.James@epa.gov>; Pearson, Evan <Pearson.Evan@epa.gov>; Phelps, Sherronda <Phelps.Sherronda@epa.gov>; Robledo, Tony <Robledo.Tony@epa.gov>; Rogers, Elizabeth <rogers.elizabeth@epa.gov>; Smalley, Bryant <smalley.bryant@epa.gov>; Smith, Monica <smith.monica@epa.gov>; Stucky, Marie <Stucky.Marie@epa.gov>; Tate, Samuel <Tate.Samuel@epa.gov>; Thompson, Steve <thompson.steve@epa.gov>; Trawick, Matthew <Trawick.Matthew@epa.gov>; Ward, Misty <ward.misty@epa.gov>; Bieri, Britt <bieri.britt@epa.gov>; Blunk, Terri <Blunk.Terri@epa.gov>; Bosch, Raymond <Bosch.Raymond@epa.gov>; Brewer, Laura <brewer.laura@epa.gov>; Bunch, Howard <Bunch.Howard@epa.gov>; Harper, Jodi <Harper.Jodi@epa.gov>; Hayes, Scott <Hayes.Scott@epa.gov>; Hensley, Dave <Hensley.Dave@epa.gov>; Hoard, Christine <Hoard.Christine@epa.gov>; LaBoda, Sarah <LaBoda.Sarah@epa.gov>; Mills, Clarissa <mills.clarissa@epa.gov>; Ndiaye, Fatimatou <Ndiaye.Fatimatou@epa.gov>; Pessetto, Jared <Pessetto.Jared@epa.gov>; Reitz, Katherine <reitz.katherine@epa.gov>; Reitz, Patricia <Reitz.Patricia@epa.gov>; Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>; Stotts, Krystal <Stotts.Krystal@epa.gov>; Trotter, Jennifer <Trotter.Jennifer@epa.gov>; Weekley, Erin <weekley.erin@epa.gov>; Whisnant, Amber <Whisnant.Amber@epa.gov>; Atencio, Kathie <Atencio.Kathie@epa.gov>; Bockstahler, Breann <Bockstahler.breann@epa.gov>; Broussard, Rebecca <Broussard.Rebecca@epa.gov>; Chavez, Luke <Chavez.Luke@epa.gov>; Cobb, David <cobb.david@epa.gov>; Meyer, Jeff <Meyer.Jeff@epa.gov>; Ramirez, Steven A <ramirez.stevena@epa.gov>; Reed, Lori <Reed.Lori@epa.gov>; Robinson, Janis <Robinson.Janis@epa.gov>; Weiner, Marc <Weiner.Marc@epa.gov>; Bazley, Greg <Bazley.Greg@epa.gov>; Berg, Elizabeth <Berg.Elizabeth@epa.gov>; BERMAN, TESSA <Berman.Tessa@epa.gov>; Deyoe, Jeremy <deyoe.jeremy@epa.gov>; Gallo, Madeline <Gallo.Madeline@epa.gov>; Henry, Karen <Henry.Karen@EPA.GOV>; Johnstone, Jeremy <Johnstone.Jeremy@epa.gov>; Jones, Bill <jones.bill@epa.gov>; Lawrence, Kathryn <Lawrence.Kathryn@epa.gov>; Lucas, Robert <Lucas.Robert@epa.gov>; Moore, Letitia <Moore.Letitia@epa.gov>; Nixon, Donald <nixon.donald@epa.gov>; Proboszcz, Angie <Proboszcz.Angie@EPA.GOV>; Rongone, Marie <Rongone.Marie@epa.gov>; Steiner, Cyntia <Steiner.Cyntia@epa.gov>; Wirtschafter, Joshua <Wirtschafter.Joshua@epa.gov>; Averback, Jonathan <Averback.Jonathan@epa.gov>; Belke, Jim <Belke.Jim@epa.gov>; Bosecker, Elizabeth <Bosecker.Elizabeth@epa.gov>; Brown, Stephanie <Brown.Stephanie@epa.gov>; Burnett, Michael <Burnett.Michael@epa.gov>; Dixon, Chelsea <Dixon.Chelsea@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Garvey, Mark <Garvey.Mark@epa.gov>; Gerardin, Margaret <Gerardin.Margaret@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Hunt, Stuart <Hunt.Stuart@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mears, Gilbert <Mears.Gilbert@epa.gov>; Miles, James <miles.james@epa.gov>; Presler, Amos <presler.amos@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Santacroce, Jeffrey <Santacroce.Jeffrey@epa.gov>; Seltzer, Mark <Seltzer.Mark@epa.gov>; Skinner-Thompson, Jonathan <Skinner-Thompson.Jonathan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Tekrony, Linda <Tekrony.Linda@epa.gov>; Varco, Joseph <varco.joseph@epa.gov>; Yonce, Stacey <yonce.stacey@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>

**Subject:** IMPORTANT follow-up to the EPCRA/CERCLA/112(r) enforcement call

How about:

Hi all- I am sure you are eager to get more information on how EPA is addressing the court's vacatur of the final rule that exempted farms from reporting air releases of hazardous substances from animal waste.

- On April 11, 2017, the DC Circuit Court vacated this final rule.
- In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017.
- To assist farmers in meeting CERCLA and EPCRA reporting requirements, EPA Senior Leadership in OLEM, OGC, and OECA are working on guidance to assist farms in reporting their air releases under CERCLA and EPCRA. EPA



is working to have this guidance available to farmers with enough time to review the guidance and comply with the reporting requirements.

I believe that Patty Gioffre and Sicy Jacob provided a brief update during the last EPCRA/CERCLA/112(r) enforcement call. There was also a discussion about the attached letter drafted by Region 5 and how that may not currently reflect the guidance that we plan to issue.

I would like to reiterate that since we are working on providing guidance to farms, the Regions should NOT send out letters to farmers explaining their responsibilities to report hazardous substance releases under CERCLA and EPCRA. Please wait until we have finalized the guidance on how to comply with EPCRA/CERCLA reporting requirements for air releases of hazardous substances from animal waste.

Thanks and let me know if you have any questions.

Kim

Kim Jennings

**Division Director** || **Regulations Implementation Division**

**U.S. Environmental Protection Agency** || **Office of Emergency Management**

**E-mail:** [jennings.kim@epa.gov](mailto:jennings.kim@epa.gov) || **Desk:** (202) 564-7998 ||

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/3/2018 6:26:27 PM  
**To:** D'Andrea, Michael [DANDREA.MICHAEL@EPA.GOV]; schaffer, joan [schaffer.joan@epa.gov]; White, Terri-A [White.Terri-A@epa.gov]; Dunn, Michael [dunn.michael@epa.gov]; Armstrong, Joan [Armstrong.Joan@epa.gov]; Gilley, Anne [Gilley.anne@epa.gov]  
**Subject:** FW: Q&A for EPCRA/CERCLA Air Emission Reporting Requirements

FYI. With Anne out today, I decided to send these Q&A's to HQ given that we need a quick turn-around for Cos' event next week. K

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

---

**From:** Shenk, Kelly  
**Sent:** Wednesday, January 03, 2018 1:25 PM  
**To:** Sands, Jeffrey <sands.jeffrey@epa.gov>; Hema Subramanian (Subramanian.Hema@epa.gov) <Subramanian.Hema@epa.gov>  
**Subject:** Q&A for EPCRA/CERCLA Air Emission Reporting Requirements

Hi Jeff and Hema,

My Regional Administrator will be speaking at Delaware Ag Week **on January 10<sup>th</sup>** with the agricultural community on the Delmarva Peninsula – chicken broiler country. So we are anticipating a number of questions about the new reporting requirements given the tremendous interest from US Poultry and Egg Association, Delmarva Poultry Industry, Inc, and the key poultry integrators in our region. Here are some Q&A's I drafted for review and refinement by OLEM. Thank you for forwarding this on and helping us to get some quick review before the event. K

**Q: How is EPA going to ensure that farmer's private information is not released to the public?**

**A:**

**Q: How does EPA expect that we can report air releases when EPA has been unable to provide scientifically robust methodologies for measuring emissions from the types of farms we have in Delaware?**

# Deliberative Process / Ex. 5

**Q: Does EPA have plans to regulate air emissions from animal operations in the future?**

# Deliberative Process / Ex. 5

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Agriculture Advisor  
EPA Region III Water Protection Division  
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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 11/21/2017 5:45:50 PM  
**To:** Dunn, Michael [dunn.michael@epa.gov]; Armstrong, Joan [Armstrong.Joan@epa.gov]  
**Subject:** RE: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

# Deliberative Process / Ex. 5

Thank you. Cecil

**Q. Do farms that have cattle reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?**

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**Q. If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?**

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410.267.5728

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**From:** Dunn, Michael  
**Sent:** Tuesday, November 21, 2017 12:35 PM  
**To:** Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>; Armstrong, Joan <[Armstrong.Joan@epa.gov](mailto:Armstrong.Joan@epa.gov)>  
**Subject:** RE: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Kelly,

Thank you. It looks like I did get this, but somehow missed the opportunity to forward it to you. Apologies. Do you know why the Ag Advisors aren't on these email exchanges? Also, do we need to forward it to Cecil, et al?

Michael Dunn  
Oil and Prevention Branch Chief  
Office of Enforcement  
Hazardous Sites Cleanup Division  
USEPA Mid-Atlantic Region 3  
215-814-2712 (work)  
[dunn.michael@epa.gov](mailto:dunn.michael@epa.gov)

---

**From:** Shenk, Kelly  
**Sent:** Tuesday, November 21, 2017 12:19 PM  
**To:** Armstrong, Joan <[Armstrong.Joan@epa.gov](mailto:Armstrong.Joan@epa.gov)>; Dunn, Michael <[dunn.michael@epa.gov](mailto:dunn.michael@epa.gov)>  
**Subject:** FW: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Hi Joan and Michael, did you receive this email from Kim Jennings, OEM? The Region 6 Ag Advisor received it directly from his regional EPCRA/CERCLA folks. But it does not look like this went out to all the Ag Advisors directly. Thanks for any insights. K

Kelly Shenk  
Agricultural Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

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**From:** Rush, Randall  
**Sent:** Tuesday, November 21, 2017 11:57 AM  
**To:** Perrin, Rebecca <[Perrin.Rebecca@epa.gov](mailto:Perrin.Rebecca@epa.gov)>; Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>  
**Subject:** FW: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Did you guys get this one?

**Randy Rush**  
**Policy Advisor - Agriculture**  
**U.S. EPA - Region 6**  
**1445 Ross Avenue (6WQ)**  
**Dallas, TX 75202**

**214-665-7107**  
[rush.randall@epa.gov](mailto:rush.randall@epa.gov)

"Ua Mau ke Ea o ka 'Āina i ka Pono "

The life of the land is perpetuated in righteousness

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**From:** Mason, Steve  
**Sent:** Monday, November 20, 2017 6:59 PM  
**To:** Rush, Randall <[Rush.Randall@epa.gov](mailto:Rush.Randall@epa.gov)>  
**Subject:** FW: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

*With Regards, Steve*



Stephen Mason  
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1445 Ross Avenue, Dallas, TX 75202  
214-665-2276  
[stephen.mason@epa.gov](mailto:stephen.mason@epa.gov)

"Frequently, my thoughts get bored and walk  
down to my mouth. Often, this is a bad thing."

---

**Subject:** IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Hi all,

I know that there has been a lot of frustration with ensuring that regional staff receive timely communications on the CERCLA EPCRA requirements for farmers. Activities on this issue have rapidly evolved and as a result, you have received information from external stakeholders or others within the Agency (rather than from OEM staff). We will make it a priority to do better moving forward, beginning with weekly updates. OEM will also send additional emails to communicate changes to the website or availability of other materials as quickly as we can.

With that said, let me take a moment to thank you all for your communication efforts thus far with ag stakeholders. I am sure you have spent a lot of time answering questions and listening to complaints from farmers. I know that it can be difficult being on the front lines of these interactions and I appreciate the time and effort you have taken to provide this customer service to our stakeholders. Please continue to answer these questions and encourage stakeholders to submit their questions to [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov). The website is evergreen, and therefore, we will continue to consider comments to that email address after the 24<sup>th</sup> of this month.

Last week, OEM made several revisions to the website to address the overwhelming number of calls to the NRC from farmers making initial continuous release notifications. These changes happened rapidly, and in coordination with attorneys in OGC, to let farmers know that an email could substitute for a call to the NRC. Farmers (or their representatives) that send an email receive an automated response with the same CR-ERNS number to document the call. OEM will work with the regions to set up a system to manage these emails. So far, we have received approx. 2,400 emails. There could be multiple farms reported in some of these emails.

At this time, the NRC is not accepting calls from farmers who want to report an initial continuous release notification. OEM continues to work with the NRC to find a solution that allows farmers with no access to email to be able to make their initial notification without overwhelming the NRC duty officers. As we make progress working with the NRC, we will send out email updates.

At this time, farms are not yet required to comply with CERCLA/EPCRA reporting requirements. Once the DC circuit court issues the mandate that vacates the 2008 rule farms will once again be subject to the reporting requirements. We will

send an update to you once we get news of an expected date the court will issue the mandate, and OEM will update the website.

Finally, I know you all are getting lots of questions from farmers. I want to include a couple of Q&As in this email that you can share with farmers when you speak with them. We intend to update the website with these Q&As as well as others.

**Q. Do farms that have cattle reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?**

A: Yes. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and aggregate the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

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If you have questions or concerns, please don't hesitate to contact us in OEM. You can call or email me or Sicy Jacob can be reached at 202-564-8019 and Patty Gioffre at 202-564-1972.

Kim

Kim Jennings  
Division Director || Regulations Implementation Division  
U.S. Environmental Protection Agency || Office of Emergency Management  
E-mail: [jennings.kim@epa.gov](mailto:jennings.kim@epa.gov) || Desk: (202) 564-7998 ||

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 11/21/2017 5:20:24 PM  
**To:** Rush, Randall [Rush.Randall@epa.gov]; Perrin, Rebecca [Perrin.Rebecca@epa.gov]  
**Subject:** RE: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Good idea. I just sent my Region 3 colleagues an email asking them if they received the email directly. Have a wonderful Thanksgiving in New Orleans! Drink a hurricane for me! We are heading to Wintergreen Resort in VA mountains – renting a house with my side of the family – always a dramatic and lively time! K

Kelly Shenk  
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EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

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**From:** Rush, Randall  
**Sent:** Tuesday, November 21, 2017 12:04 PM  
**To:** Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>; Perrin, Rebecca <[Perrin.Rebecca@epa.gov](mailto:Perrin.Rebecca@epa.gov)>  
**Subject:** RE: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Pretty sure it was yesterday, since our EPCRA lead has been good about sending me updates he has received.

**Randy Rush**  
**Policy Advisor - Agriculture**  
**U.S. EPA - Region 6**  
**1445 Ross Avenue (6WQ)**  
**Dallas, TX 75202**

**214-665-7107**  
[rush.randall@epa.gov](mailto:rush.randall@epa.gov)

*"Ua Mau ke Ea o ka 'Āina i ka Pono"*

The life of the land is perpetuated in righteousness

---

**From:** Shenk, Kelly  
**Sent:** Tuesday, November 21, 2017 11:02 AM  
**To:** Rush, Randall <[Rush.Randall@epa.gov](mailto:Rush.Randall@epa.gov)>; Perrin, Rebecca <[Perrin.Rebecca@epa.gov](mailto:Perrin.Rebecca@epa.gov)>  
**Subject:** RE: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues



Do you know the date when Kim sent this? K

Kelly Shenk  
Agricultural Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

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**From:** Rush, Randall  
**Sent:** Tuesday, November 21, 2017 11:57 AM  
**To:** Perrin, Rebecca <[Perrin.Rebecca@epa.gov](mailto:Perrin.Rebecca@epa.gov)>; Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>  
**Subject:** FW: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Did you guys get this one?

**Randy Rush**  
**Policy Advisor - Agriculture**  
**U.S. EPA - Region 6**  
**1445 Ross Avenue (6WQ)**  
**Dallas, TX 75202**

**214-665-7107**  
[rush.randall@epa.gov](mailto:rush.randall@epa.gov)

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**From:** Mason, Steve  
**Sent:** Monday, November 20, 2017 6:59 PM  
**To:** Rush, Randall <[Rush.Randall@epa.gov](mailto:Rush.Randall@epa.gov)>  
**Subject:** FW: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

*With Regards, Steve*



Stephen Mason  
EPA Region 6 (EPA/6)  
1445 Ross Avenue, Dallas, TX 75202  
214-665-7176  
[mason.steve@epa.gov](mailto:mason.steve@epa.gov)

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down to my mouth. Often, this is a bad thing."

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If you have questions or concerns, please don't hesitate to contact us in OEM. You can call or email me or Sicy Jacob can be reached at 202-564-8019 and Patty Gioffre at 202-564-1972.

Kim

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**Subject:** IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Hi all (sorry is some of you are getting this twice),

I wanted to update on the EPCRA/CERCLA Ag issue. As you know, on April 11, 2017, the Court struck down the EPCRA/CERCLA final rule, eliminating the reporting exemptions for farms. Unless the DC Circuit Court takes further action, the court's ruling takes effect on **November 15, 2017**. Several weeks ago, EPA provided guidance materials to help farmers understand their reporting obligations and, that guidance for farm owners/operators on our website at: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>. The website includes FAQs on CERCLA and EPCRA reporting and instructions on how to submit continuous release reports. As a result, farmers are now calling the NRC to make an initial continuous release notification.

Several issues have arisen related to farmer owners/operators making their initial continuous release notification to the National Response Center (NRC). First, the NRC is experiencing a large volume of calls, which have the potential to overwhelm their capacity. Second, the automated system the NRC uses to ensure release notifications get to the appropriate Federal, State, and local response officials, has resulted in some State and local officials calling the farm owners/operators to get more information about the release they reported and what response is needed. In order to resolve these issues, EPA has been working with the NRC program officials and made the following changes:

- The NRC has established an e-mail notification system so farm owners/operators can email their continuous release reports to the NRC, as an alternative to calling the NRC. Farmers who have multiple farms can list the name and location of all farms, as well as the associated name(s) of hazardous substance(s) released, in one e-mail. Please encourage farmers to use this e-mail option to provide the National Response Center (NRC) with

their initial continuous release notification. The NRC e-mail address is: [NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil). Alternatively, the NRC phone number for these notifications is: 1-800-424-8802.

- Once the email is received by the NRC e-mail notification system, it will generate an automatic response e-mail with a generic identification number (CR-ERNS) for the farm (note: this number will be the same for all farm owners/operators who provide their initial notification to the NRC via email). The farm owner/operator will place that CR-ERNS number on the follow-up written notification report that is required to be submitted to the EPA Regional Office within 30 days. Therefore, on or around December 15, 2017, all EPA Regional offices will be receiving a large number of written continuous release reports from farm owners/operators.

Regarding the factsheet or "cheat sheet" that was developed to provide compliance assistance to farmers who may soon need to report air release from animal waste under the CERCLA section 103, EPA is working on revising that document to include the above information and will get that out to you as soon as we can.

Thanks,  
Kim

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**Sent:** Thursday, September 21, 2017 7:09 AM

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**Subject:** IMPORTANT follow-up to the EPCRA/CERCLA/112(r) enforcement call

How about:

Hi all- I am sure you are eager to get more information on how EPA is addressing the court's vacatur of the final rule that exempted farms from reporting air releases of hazardous substances from animal waste.

- On April 11, 2017, the DC Circuit Court vacated this final rule.

- In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017.
- To assist farmers in meeting CERCLA and EPCRA reporting requirements, EPA Senior Leadership in OLEM, OGC, and OECA are working on guidance to assist farms in reporting their air releases under CERCLA and EPCRA. EPA is working to have this guidance available to farmers with enough time to review the guidance and comply with the reporting requirements.

I believe that Patty Gioffre and Sicy Jacob provided a brief update during the last EPCRA/CERCLA/112(r) enforcement call. There was also a discussion about the attached letter drafted by Region 5 and how that may not currently reflect the guidance that we plan to issue.

I would like to reiterate that since we are working on providing guidance to farms, the Regions should NOT send out letters to farmers explaining their responsibilities to report hazardous substance releases under CERCLA and EPCRA. Please wait until we have finalized the guidance on how to comply with EPCRA/CERCLA reporting requirements for air releases of hazardous substances from animal waste.

Thanks and let me know if you have any questions.  
Kim

Kim Jennings  
Division Director || Regulations Implementation Division  
U.S. Environmental Protection Agency || Office of Emergency Management  
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Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 11/21/2017 5:00:27 PM  
**To:** Rush, Randall [Rush.Randall@epa.gov]; Perrin, Rebecca [Perrin.Rebecca@epa.gov]  
**Subject:** RE: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

No. I did not receive this. It's very nice and useful and seems directed at the Ag Advisors. Just wonder why it wasn't sent to the Ag Advisors directly...Thanks for sharing. K

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EPA Region III Water Protection Division  
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**From:** Rush, Randall  
**Sent:** Tuesday, November 21, 2017 11:57 AM  
**To:** Perrin, Rebecca <Perrin.Rebecca@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>  
**Subject:** FW: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Did you guys get this one?

**Randy Rush**  
**Policy Advisor - Agriculture**  
**U.S. EPA - Region 6**  
**1445 Ross Avenue (6WQ)**  
**Dallas, TX 75202**

**214-665-7107**  
[rush.randall@epa.gov](mailto:rush.randall@epa.gov)

*"Ua Mau ke Ea o ka 'Āina i ka Pono"*

The life of the land is perpetuated in righteousness

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**From:** Mason, Steve  
**Sent:** Monday, November 20, 2017 6:59 PM  
**To:** Rush, Randall <[Rush.Randall@epa.gov](mailto:Rush.Randall@epa.gov)>  
**Subject:** FW: IMPORTANT follow-up to the EPCRA/CERCLA Ag issues



*With Regards, Steve*



Stephen Mason  
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"Frequently, my thoughts get bored and walk down to my mouth. Often, this is a bad thing."

**Subject:** IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Hi all,

I know that there has been a lot of frustration with ensuring that regional staff receive timely communications on the CERCLA EPCRA requirements for farmers. Activities on this issue have rapidly evolved and as a result, you have received information from external stakeholders or others within the Agency (rather than from OEM staff). We will make it a priority to do better moving forward, beginning with weekly updates. OEM will also send additional emails to communicate changes to the website or availability of other materials as quickly as we can.

With that said, let me take a moment to thank you all for your communication efforts thus far with ag stakeholders. I am sure you have spent a lot of time answering questions and listening to complaints from farmers. I know that it can be difficult being on the front lines of these interactions and I appreciate the time and effort you have taken to provide this customer service to our stakeholders. Please continue to answer these questions and encourage stakeholders to submit their questions to [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov). The website is evergreen, and therefore, we will continue to consider comments to that email address after the 24<sup>th</sup> of this month.

Last week, OEM made several revisions to the website to address the overwhelming number of calls to the NRC from farmers making initial continuous release notifications. These changes happened rapidly, and in coordination with attorneys in OGC, to let farmers know that an email could substitute for a call to the NRC. Farmers (or their representatives) that send an email receive an automated response with the same CR-ERNS number to document the call. OEM will work with the regions to set up a system to manage these emails. So far, we have received approx. 2,400 emails. There could be multiple farms reported in some of these emails.

At this time, the NRC is not accepting calls from farmers who want to report an initial continuous release notification. OEM continues to work with the NRC to find a solution that allows farmers with no access to email to be able to make their initial notification without overwhelming the NRC duty officers. As we make progress working with the NRC, we will send out email updates.

At this time, farms are not yet required to comply with CERCLA/EPCRA reporting requirements. Once the DC circuit court issues the mandate that vacates the 2008 rule farms will once again be subject to the reporting requirements. We will send an update to you once we get news of an expected date the court will issue the mandate, and OEM will update the website.

Finally, I know you all are getting lots of questions from farmers. I want to include a couple of Q&As in this email that you can share with farmers when you speak with them. We intend to update the website with these Q&As as well as others.

**Q. Do farms that have cattle reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?**

A: Yes. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and aggregate the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

**Q. If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?**

**A:** No. For those farmers who have already made their initial continuous release notification, the farmer should wait to submit the written report until the court issues the mandate. Within 30 days of the court mandate, the farmer must submit a written report to the EPA regional office. No additional call or email to the NRC is required.

If you have questions or concerns, please don't hesitate to contact us in OEM. You can call or email me or Sicy Jacob can be reached at 202-564-8019 and Patty Gioffre at 202-564-1972.

Kim

Kim Jennings

Division Director || Regulations Implementation Division

U.S. Environmental Protection Agency || Office of Emergency Management

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**From:** Jennings, Kim

**Sent:** Tuesday, November 14, 2017 1:01 PM

**To:** Haas, Craig <[Haas.Craig@epa.gov](mailto:Haas.Craig@epa.gov)>; Brown, Deborah <[Brown.Deborah@epa.gov](mailto:Brown.Deborah@epa.gov)>; Chin, William <[chin.bill@epa.gov](mailto:chin.bill@epa.gov)>; Gaffey, Jim <[Gaffey.Jim@epa.gov](mailto:Gaffey.Jim@epa.gov)>; O'Donnell, Mary Jane <[Odonnell.Maryjane@epa.gov](mailto:Odonnell.Maryjane@epa.gov)>; Peavey, Dwight <[Peavey.Dwight@epa.gov](mailto:Peavey.Dwight@epa.gov)>; Rascher, Chris <[rascher.chris@epa.gov](mailto:rascher.chris@epa.gov)>; Smith, Catherine <[smith.catherine@epa.gov](mailto:smith.catherine@epa.gov)>; Wallace, Leonard <[Wallace.Len@epa.gov](mailto:Wallace.Len@epa.gov)>; Gallagher, Shirin <[Gallagher.Shirin@epa.gov](mailto:Gallagher.Shirin@epa.gov)>; Garcia, Terry <[Garcia.Terry@epa.gov](mailto:Garcia.Terry@epa.gov)>; Hales, Bob <[Hales.Bob@epa.gov](mailto:Hales.Bob@epa.gov)>; Hartman, Bob <[Hartman.Bob@epa.gov](mailto:Hartman.Bob@epa.gov)>; Leefers, Kristin <[Leefers.Kristin@epa.gov](mailto:Leefers.Kristin@epa.gov)>; 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**Subject:** IMPORTANT follow-up to the EPCRA/CERCLA Ag issues

Hi all (sorry if some of you are getting this twice),

I wanted to update on the EPCRA/CERCLA Ag issue. As you know, on April 11, 2017, the Court struck down the EPCRA/CERCLA final rule, eliminating the reporting exemptions for farms. Unless the DC Circuit Court takes further action, the court's ruling takes effect on **November 15, 2017**. Several weeks ago, EPA provided guidance materials to help farmers understand their reporting obligations and, that guidance for farm owners/operators on our website at: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>. The website includes FAQs on CERCLA and EPCRA reporting and instructions on how to submit continuous release reports. As a result, farmers are now calling the NRC to make an initial continuous release notification.

Several issues have arisen related to farmer owners/operators making their initial continuous release notification to the National Response Center (NRC). First, the NRC is experiencing a large volume of calls, which have the potential to overwhelm their capacity. Second, the automated system the NRC uses to ensure release notifications get to the appropriate Federal, State, and local response officials, has resulted in some State and local officials calling the farm owners/operators to get more information about the release they reported and what response is needed. In order to resolve these issues, EPA has been working with the NRC program officials and made the following changes:

- The NRC has established an e-mail notification system so farm owners/operators can email their continuous release reports to the NRC, as an alternative to calling the NRC. Farmers who have multiple farms can list the name and location of all farms, as well as the associated name(s) of hazardous substance(s) released, in one e-mail. Please encourage farmers to use this e-mail option to provide the National Response Center (NRC) with their initial continuous release notification. The NRC e-mail address is: [NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil). Alternatively, the NRC phone number for these notifications is: 1-800-424-8802.
- Once the email is received by the NRC e-mail notification system, it will generate an automatic response e-mail with a generic identification number (CR-ERNS) for the farm (note: this number will be the same for all farm owners/operators who provide their initial notification to the NRC via email). The farm owner/operator will place that CR-ERNS number on the follow-up written notification report that is required to be submitted to the EPA Regional Office within 30 days. Therefore, on or around December 15, 2017, all EPA Regional offices will be receiving a large number of written continuous release reports from farm owners/operators.

Regarding the factsheet or "cheat sheet" that was developed to provide compliance assistance to farmers who may soon need to report air release from animal waste under the CERCLA section 103, EPA is working on revising that document to include the above information and will get that out to you as soon as we can.

Thanks,  
Kim

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 Jeff <Meyer.Jeff@epa.gov>; Ramirez, Steven A <ramirez.stevena@epa.gov>; Reed, Lori <Reed.Lori@epa.gov>; Robinson,  
 Janis <Robinson.Janis@epa.gov>; Weiner, Marc <Weiner.Marc@epa.gov>; Bazley, Greg <Bazley.Greg@epa.gov>; Berg,  
 Elizabeth <Berg.Elizabeth@epa.gov>; BERMAN, TESSA <Berman.Tessa@epa.gov>; Deyoe, Jeremy  
 <deyoe.jeremy@epa.gov>; Gallo, Madeline <Gallo.Madeline@epa.gov>; Henry, Karen <Henry.Karen@EPA.GOV>;  
 Johnstone, Jeremy <Johnstone.Jeremy@epa.gov>; Jones, Bill <jones.bill@epa.gov>; Lawrence, Kathryn  
 <Lawrence.Kathryn@epa.gov>; Lucas, Robert <Lucas.Robert@epa.gov>; Moore, Letitia <Moore.Letitia@epa.gov>;  
 Nixon, Donald <nixon.donald@epa.gov>; Proboszcz, Angie <Proboszcz.Angie@EPA.GOV>; Rongone, Marie  
 <Rongone.Marie@epa.gov>; Steiner, Cyntia <Steiner.Cyntia@epa.gov>; Wirtschafter, Joshua  
 <Wirtschafter.Joshua@epa.gov>; Averback, Jonathan <Averback.Jonathan@epa.gov>; Belke, Jim <Belke.Jim@epa.gov>;  
 Bosecker, Elizabeth <Bosecker.Elizabeth@epa.gov>; Brown, Stephanie <Brown.Stephanie@epa.gov>; Burnett, Michael  
 <Burnett.Michael@epa.gov>; Dixon, Chelsea <Dixon.Chelsea@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>;  
 Garvey, Mark <Garvey.Mark@epa.gov>; Gerardin, Margaret <Gerardin.Margaret@epa.gov>; Gioffre, Patricia  
 <Gioffre.Patricia@epa.gov>; Hunt, Stuart <Hunt.Stuart@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Lischinsky, Robert  
 <Lischinsky.Robert@epa.gov>; Mears, Gilbert <Mears.Gilbert@epa.gov>; Miles, James <miles.james@epa.gov>; Presler,  
 Amos <presler.amos@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Santacroce, Jeffrey  
 <Santacroce.Jeffrey@epa.gov>; Seltzer, Mark <Seltzer.Mark@epa.gov>; Skinner-Thompson, Jonathan <Skinner-  
 Thompson.Jonathan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>;  
 Tekrony, Linda <Tekrony.Linda@epa.gov>; Varco, Joseph <varco.joseph@epa.gov>; Yonce, Stacey

<yonce.stacey@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>

**Subject:** IMPORTANT follow-up to the EPCRA/CERCLA/112(r) enforcement call

How about:

Hi all- I am sure you are eager to get more information on how EPA is addressing the court's vacatur of the final rule that exempted farms from reporting air releases of hazardous substances from animal waste.

- On April 11, 2017, the DC Circuit Court vacated this final rule.
- In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017.
- To assist farmers in meeting CERCLA and EPCRA reporting requirements, EPA Senior Leadership in OLEM, OGC, and OECA are working on guidance to assist farms in reporting their air releases under CERCLA and EPCRA. EPA is working to have this guidance available to farmers with enough time to review the guidance and comply with the reporting requirements.

I believe that Patty Gioffre and Sicy Jacob provided a brief update during the last EPCRA/CERCLA/112(r) enforcement call. There was also a discussion about the attached letter drafted by Region 5 and how that may not currently reflect the guidance that we plan to issue.

I would like to reiterate that since we are working on providing guidance to farms, the Regions should NOT send out letters to farmers explaining their responsibilities to report hazardous substance releases under CERCLA and EPCRA. Please wait until we have finalized the guidance on how to comply with EPCRA/CERCLA reporting requirements for air releases of hazardous substances from animal waste.

Thanks and let me know if you have any questions.

Kim

Kim Jennings

Division Director || Regulations Implementation Division

U.S. Environmental Protection Agency || Office of Emergency Management

E-mail: [jennings.kim@epa.gov](mailto:jennings.kim@epa.gov) || Desk: (202) 564-7998 ||

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 10/24/2017 6:47:34 PM  
**To:** Sternberg, David [Sternberg.David@epa.gov]  
**CC:** schafer, joan [schafer.joan@epa.gov]; D'Andrea, Michael [DANDREA.MICHAEL@EPA.GOV]  
**Subject:** Re: poultry farm inspections inquiry

This looks great. And Mark is the right person for this.

Kelly Shenk EPA Region 3 Agriculture Advisor  
US EPA Water Protection Division  
[Shenk.kelly@epa.gov](mailto:Shenk.kelly@epa.gov)  
(410) 267 5728

On Oct 24, 2017, at 12:29 PM, Sternberg, David <[Sternberg.David@epa.gov](mailto:Sternberg.David@epa.gov)> wrote:

Mark Zolandz, who is an inspector and an enforcement officer in our WPD who is very familiar with the case and Virginia ag issues and programs would be happy to speak with the reporter with given approval.

I think that this a good idea because Mark is good at explaining things in relatively simple and understandable terms without going too deeply into weeds.

Here are three main points he would make response to the reporter's questions.

1. In Virginia, all poultry farms with 20,000 or more chickens need either a Virginia Pollution Abatement (VPA) permit or a Virginia Pollutant Discharge Elimination System [VPDES] permit, depending on whether or not the facility discharges pollutants to surface waters. [[http://www.deq.virginia.gov/Portals/0/DEQ/Water/VirginiaPollutionAbatement/AFOdocuments/AFO\\_CAFO\\_Decision\\_Tree20130318.pdf?ver=2013-11-26-110039-450](http://www.deq.virginia.gov/Portals/0/DEQ/Water/VirginiaPollutionAbatement/AFOdocuments/AFO_CAFO_Decision_Tree20130318.pdf?ver=2013-11-26-110039-450)]

2. The VPA permit program is a state permit program that is implemented by Virginia DEQ. The NPDES permit program is a federal permit program that EPA has authorized Virginia DEQ to implement in Virginia (and which Virginia DEQ implements as the VPDES program).

3. EPA is currently developing guidance regarding the reporting of air releases of hazardous substances from animal waste [<https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>] ,

**From:** "Zullo, Robert" <[RZullo@timesdispatch.com](mailto:RZullo@timesdispatch.com)>  
**Date:** October 23, 2017 at 12:53:33 PM EDT

To: "Sternberg, David" <[Sternberg.David@epa.gov](mailto:Sternberg.David@epa.gov)>, "Seneca, Roy" <[Seneca.Roy@epa.gov](mailto:Seneca.Roy@epa.gov)>

**Subject: poultry farm inspections**

I'm writing this week about the impact of poultry production on the Eastern Shore of Virginia and came across an EPA enforcement action for an AFO in Atlantic, Va., in Accomack County (see attached)..

Was wondering what prompted this specific enforcement action and how I might find out how many similar Clean Water Act inspections/enforcement actions EPA has conducted in Virginia and nationwide for poultry operations.

Does EPA routinely inspect poultry operations in Virginia and elsewhere for CWA violations?

What about for the Clean Air Act?

Are the substantial ammonia and other air emissions from these facilities require any air permits?

Also, in the Atlantic case, the owner/operator was directed to apply to VA DEQ for a VPDES permit. My understanding, however, is that most poultry facilities here in Virginia are not covered by such permits.

Is there someone I can talk to about why not all facilities are directed by EPA to have a VPDES permit?

Thanks for your help.

**Robert Zullo**

Staff Writer

Richmond Times-Dispatch

desk: 804-649-6453 cell: 985-414-2006

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Twitter: @rczullo.

[Richmond.com](http://Richmond.com)

<2010.09.29 EPA, Brady Farm Administrative Order[24532].pdf.html>



## **EPCRA/CERCLA Background**

### **EPCRA/CERCLA (Updated based on EPA Press Release 10/25/17)**

- On December 18, 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste.
- On April 11, 2017, the DC Circuit Court vacated this final rule.
- In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017.
- On October 25, 2017, EPA released its guidance to assist farmers in reporting air releases of hazardous substances from animal waste at farms. EPA is making this information available to provide time for farmers to review and prepare for the reporting deadline, currently set for November 15, 2017.
- Unless the court further delays this date, all farms (including those previously exempted) that have releases of hazardous substances to air from animal wastes equal to or greater than the reportable quantities for those hazardous substances within any 24-hour period must provide notification of such releases.
- EPA Administrator has said that “EPA is working diligently to address undue regulatory burden on American farmers. While we continue to examine our options for reporting requirements for emissions from animal waste, EPA’s guidance is designed to help farmers comply with the current requirements.”
- The EPA guidance information includes links to resources that farmers can use to calculate emissions tailored to specific species of livestock. Our website has the guidance and Frequently Asked Questions on reporting air emissions from animal waste: [ HYPERLINK "<http://USEPA.pr-optout.com/Tracking.aspx?Data=HHL%3d8.5%2f90-%3eLCE583339%26SDG%3c90%3a.&RE=MC&RI=5628299&Preview=False&DistributionActionID=42388&Action=Follow+Link>" ].
- EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations. Interested parties may submit comments or suggestions by November 24, 2017.

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 12/19/2017 3:24:49 PM  
**To:** Hank Zygmunt [hankzyg@gmail.com]  
**Subject:** epkra/cercla air emission reporting requirements for animal farms

Here's the link:

<https://www.epa.gov/epkra/cercla-and-epkra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

Kelly Shenk  
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EPA Region III Water Protection Division  
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EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
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Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 11/15/2017 1:31:04 PM  
**To:** schaffer, joan [schafer.joan@epa.gov]; Rodrigues, Cecil [rodrigues.cecil@epa.gov]; D'Andrea, Michael [DANDREA.MICHAEL@EPA.GOV]; damm, thomas [Damm.Thomas@epa.gov]; McManus, Catharine [mcmanus.catharine@epa.gov]  
**Subject:** RE: CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms

Thanks Joan! We were waiting to hear if the court granted our request to extend the reporting deadline, but it looks like they didn't. HQ set up a call with the Ag Advisors at 11:30 AM, so I'll let folks know what else we learn.

Kelly Shenk  
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EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
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**From:** schaffer, joan  
**Sent:** Wednesday, November 15, 2017 8:12 AM  
**To:** Rodrigues, Cecil <rodrigues.cecil@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>; D'Andrea, Michael <DANDREA.MICHAEL@EPA.GOV>; damm, thomas <Damm.Thomas@epa.gov>; McManus, Catharine <mcmanus.catharine@epa.gov>  
**Subject:** FW: CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms

FYI .. this guidance will shortly be posted on the web – you may want to direct stakeholders to this updated info.

Cecil/Kelly – thought you may want this info in hand for your farm tour this week.  
Thx.

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 12/5/2017 8:12:37 PM  
**To:** Rodrigues, Cecil [rodrigues.cecil@epa.gov]  
**CC:** Correa, Laura [correa.laura@epa.gov]  
**Subject:** IGNORE THIS EMAIL - RE: Update: CERCLA/EPCRA Ag issues 12/5

Cecil and Laura, can you ignore this email. Am sending a new and improved one in a few minutes!

Kelly Shenk  
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**From:** Shenk, Kelly  
**Sent:** Tuesday, December 05, 2017 2:58 PM  
**To:** Rodrigues, Cecil <rodrigues.cecil@epa.gov>  
**Cc:** Correa, Laura <correa.laura@epa.gov>; Gilley, Anne <Gilley.anne@epa.gov>; Dunn, Michael <dunn.michael@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>  
**Subject:** FW: Update: CERCLA/EPCRA Ag issues 12/5

**Deliberative Process / Ex. 5**

# Deliberative Process / Ex. 5

See below email for the full update from OEM which also includes some internal updates that I don't think are ready for prime time but helpful for us internally.

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**From:** Gioffre, Patricia  
**Sent:** Tuesday, December 05, 2017 10:56 AM  
**Subject:** Update: CERCLA/EPCRA Ag issues 12/5

Now that the DC Circuit Court has delayed issuing the mandate on the CERCLA/EPCRA exemption vacatur, we have more time to update the guidance and answer the multitude of questions that have been raised. Specifically, I want to update you on our plans to revise the guidance on the website and to develop a streamlined continuous release report for farms. At the end of the email, I'll address next steps on managing initial continuous release notification emails and written reports.

## Website revisions

EPA requested comments from the public on the website through November 24<sup>th</sup>. Thus far, EPA received emailed comments from 23 different groups/individuals. We will continue to accept comments on the site because we view it as an "evergreen" product and want to continue to strive to improve our guidance and outreach materials. As a result, we will make ongoing updates to the website and make every effort to send out timely updates as these changes are made.

We updated the website with the following two frequently asked questions/answers.

**New** Do farms that have cattle that reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?

Yes. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and aggregate the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

**New** If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?

No. For those farmers who have already made their initial continuous release notification, the farmer may wait to submit the written report until the court issues the mandate. Within 30 days of the court mandate, the farmer must submit a written report to the EPA regional office. No additional call or email to the NRC is required.

Next steps: OEM is reviewing the website comments to identify issues that require further clarification on the website. We will develop a schedule to continue to update the website. We also ask that you continue to share the questions you are getting from farmers with us so that we can address those issues as well.

# Deliberative Process / Ex. 5

That's all for now.  
Best wishes!

---

Patty Gioffre  
USEPA (OLEM/OEM/RID)  
1200 Pennsylvania Ave. NW (5104A)  
Washington, DC 20460  
202-564-1972  
202-748-7139 (cell)

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 11/14/2017 7:50:06 PM  
**To:** Dunn, Michael [dunn.michael@epa.gov]  
**Subject:** RE: Update on EPCRA/CERCLA Ag Guidance

Thank you, Michael, for keeping me in the loop. Am eager to hear if the court grants our request to extend the 11/15 reporting deadline. K

Kelly Shenk  
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**From:** Dunn, Michael  
**Sent:** Tuesday, November 14, 2017 2:33 PM  
**To:** Rodrigues, Cecil <rodrigues.cecil@epa.gov>  
**Cc:** Shenk, Kelly <shenk.kelly@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>; Melvin, Karen <Melvin.Karen@epa.gov>; Dietz, Linda <Dietz.Linda@epa.gov>  
**Subject:** FW: Update on EPCRA/CERCLA Ag Guidance

Cecil,

Here is additional guidance that HQ sent us this afternoon. The key takeaway is that the NRC has set up a process that allows farms to report their continuous release reports via email to the NRC. The details are described in the attached email from Kim Jennings. We are still working with HQ to understand how these types of reports will be communicated to the regional office and what, if any, follow-up will be necessary.

Thanks,

Michael Dunn  
Oil and Prevention Branch Chief  
Office of Enforcement  
Hazardous Sites Cleanup Division  
USEPA Mid-Atlantic Region 3  
215-814-2712 (work)  
[dunn.michael@epa.gov](mailto:dunn.michael@epa.gov)

---

**From:** Jennings, Kim  
**Sent:** Tuesday, November 14, 2017 12:58 PM  
**Subject:** Update on EPCRA/CERCLA Ag Guidance

Hi all,

I wanted to update on the EPCRA/CERCLA Ag issue. As you know, on April 11, 2017, the Court struck down the EPCRA/CERCLA final rule, eliminating the reporting exemptions for farms. Unless the DC Circuit Court takes further action, the court's ruling takes effect on **November 15, 2017**. Several weeks ago, EPA provided guidance materials to help farmers understand their reporting obligations and, that guidance for farm owners/operators on our website at: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>. The website includes FAQs on CERCLA and EPCRA reporting and instructions on how to submit continuous release reports. As a result, farmers are now calling the NRC to make an initial continuous release notification.

Several issues have arisen related to farmer owners/operators making their initial continuous release notification to the National Response Center (NRC). First, the NRC is experiencing a large volume of calls, which have the potential to overwhelm their capacity. Second, the automated system the NRC uses to ensure release notifications get to the appropriate Federal, State, and local response officials, has resulted in some State and local officials calling the farm owners/operators to get more information about the release they reported and what response is needed. In order to resolve these issues, EPA has been working with the NRC program officials and made the following changes:

- The NRC has established an e-mail notification system so farm owners/operators can email their continuous release reports to the NRC, as an alternative to calling the NRC. Farmers who have multiple farms can list the name and location of all farms, as well as the associated name(s) of hazardous substance(s) released, in one e-mail. Please encourage farmers to use this e-mail option to provide the National Response Center (NRC) with their initial continuous release notification. The NRC e-mail address is: [NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil). Alternatively, the NRC phone number for these notifications is: 1-800-424-8802.
- Once the email is received by the NRC e-mail notification system, it will generate an automatic response e-mail with a generic identification number (CR-ERNS) for the farm (note: this number will be the same for all farm owners/operators who provide their initial notification to the NRC via email). The farm owner/operator will place that CR-ERNS number on the follow-up written notification report that is required to be submitted to the EPA Regional Office within 30 days. Therefore, on or around December 15, 2017, all EPA Regional offices will be receiving a large number of written continuous release reports from farm owners/operators.

Regarding the factsheet or "cheat sheet" that was developed to provide compliance assistance to farmers who may soon need to report air release from animal waste under the CERCLA section 103, EPA is working on revising that document to include the above information and will get that out to you as soon as we can.

Thanks,  
Kim

Kim Jennings  
Division Director || Regulations Implementation Division  
U.S. Environmental Protection Agency || Office of Emergency Management  
E-mail: [jennings.kim@epa.gov](mailto:jennings.kim@epa.gov) || Desk: (202) 564-7998 ||



Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 3/28/2018 6:31:40 PM  
**To:** schaffer, joan [schafer.joan@epa.gov]  
**Subject:** RE: TALKING POINTS: CERCLA/EPCRA Animal Waste Reporting

Thanks Joan.

Kelly Shenk  
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**From:** schaffer, joan  
**Sent:** Wednesday, March 28, 2018 2:31 PM  
**To:** Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>; Armstrong, Joan <[Armstrong.Joan@epa.gov](mailto:Armstrong.Joan@epa.gov)>; Dunn, Michael <[dunn.michael@epa.gov](mailto:dunn.michael@epa.gov)>; Gilley, Anne <[Gilley.anne@epa.gov](mailto:Gilley.anne@epa.gov)>; McManus, Catharine <[mcmanus.catharine@epa.gov](mailto:mcmanus.catharine@epa.gov)>  
**Cc:** White, Terri-A <[White.Terri-A@epa.gov](mailto:White.Terri-A@epa.gov)>  
**Subject:** FW: TALKING POINTS: CERCLA/EPCRA Animal Waste Reporting

fyi!

---

**From:** Grantham, Nancy  
**Sent:** Wednesday, March 28, 2018 2:19 PM  
**To:** Regional Public Affairs Directors <[Regional\\_Public\\_Affairs\\_Directors@epa.gov](mailto:Regional_Public_Affairs_Directors@epa.gov)>  
**Cc:** Thomas, Latosha <[Thomas.Latosha@epa.gov](mailto:Thomas.Latosha@epa.gov)>; Taylor, Trish <[Taylor.Trish@epa.gov](mailto:Taylor.Trish@epa.gov)>  
**Subject:** TALKING POINTS: CERCLA/EPCRA Animal Waste Reporting

**Please share with your regional Ag Advisors.**

Thanks ng

## CERCLA/EPCRA REPORTING REQUIRMENTS FOR FARMS

### TALKING POINTS:

# Deliberative Process / Ex. 5

# Deliberative Process / Ex. 5

Latosha Thomas  
U.S. Environmental Protection Agency  
OLEM/OEM/RMD  
(202) 564-2621 (desk)  
(202) 568-0851 (cell)  
[thomas.latosha@epa.gov](mailto:thomas.latosha@epa.gov)

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 11/16/2017 3:45:46 PM  
**To:** Rodrigues, Cecil [rodrigues.cecil@epa.gov]; Dunn, Michael [dunn.michael@epa.gov]; Armstrong, Joan [Armstrong.Joan@epa.gov]; McManus, Catharine [mcmanus.catharine@epa.gov]; D'Andrea, Michael [DANDREA.MICHAEL@EPA.GOV]; schaffer, joan [schafer.joan@epa.gov]; damm, thomas [Damm.Thomas@epa.gov]  
**CC:** Correa, Laura [correa.laura@epa.gov]  
**Subject:** DRAFT DRA Email: RE: NEW INFORMATION: EPCRA/CERCLA Air Emissions Reporting - No reporting necessary until Court issues mandate

All, we want to keep you informed of new information as it becomes available regarding the EPCRA/CERCLA air emissions reporting requirements. Last night EPA updated its website to include the following information:

"Farms with continuous releases do not have to submit their initial continuous release notification until the DC Circuit Court of Appeals issues its order, or mandate, enforcing the Court's opinion of April 11, 2017. **No reporting is necessary until the mandate is issued.**

- **Once the mandate is issued, farms should submit an initial continuous release notification to the National Response Center for qualifying releases that occur within a 24-hour period.**
- To expedite your initial continuous release notification to the National Response Center, you may use the temporary email option. This option avoids potential large call volumes and delays. It allows one email notification for owners/operators with multiple farms."

The new information is in the red "Attention!" box at the top of the webpage at the following link:

<https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

We appreciate your understanding and patience as we work through these new reporting requirements. And I'll continue to keep you updated with any new information as we move forward. Please call with any questions.

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**From:** Shenk, Kelly  
**Sent:** Thursday, November 16, 2017 10:31 AM  
**To:** Rodrigues, Cecil <rodrigues.cecil@epa.gov>; Dunn, Michael <dunn.michael@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>; McManus, Catharine <mcmanus.catharine@epa.gov>; D'Andrea, Michael <DANDREA.MICHAEL@EPA.GOV>; schaffer, joan <schafer.joan@epa.gov>; damm, thomas <Damm.Thomas@epa.gov>  
**Cc:** Correa, Laura <correa.laura@epa.gov>  
**Subject:** NEW INFORMATION: EPCRA/CERCLA Air Emissions Reporting - No reporting necessary until Court issues mandate

Hi Cecil et al.,

EPA updated the website last night to include the following information (it's in the red "Attention!" box at the top of our webpage (link below). I think we should alert our Ag Secretaries/Commissioners to this new information. Let me know how you'd like to proceed. K

- Farms with continuous releases do not have to submit their initial continuous release notification until the DC Circuit Court of Appeals issues its order, or mandate, enforcing the Court's opinion of April 11, 2017. **No reporting is necessary until the mandate is issued.**
- **Once the mandate is issued, farms should submit an initial continuous release notification to the National Response Center for qualifying releases that occur within a 24-hour period.**

- To expedite your initial continuous release notification to the National Response Center, you may use the temporary email option. This option avoids potential large call volumes and delays. It allows one email notification for owners/operators with multiple farms.

Link: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 12/12/2017 1:49:58 PM  
**To:** Gilley, Anne [Gilley.anne@epa.gov]  
**Subject:** RE: EPA Air quality reg

Thanks Anne.

Kelly Shenk  
Agricultural Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

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**From:** Gilley, Anne  
**Sent:** Tuesday, December 12, 2017 8:32 AM  
**To:** jhatton@wvda.us  
**Cc:** Armstrong, Joan <Armstrong.Joan@epa.gov>; Dunn, Michael <dunn.michael@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>; Rodrigues, Cecil <rodrigues.cecil@epa.gov>  
**Subject:** FW: EPA Air quality reg

Mr. Hatton,

This is in response to the email you sent to Cecil Rodrigues.

*(Please note, no reporting is required until the Court issues its order, or mandate, enforcing the April 11, 2017 decision. It has been stayed until January 22, 2018.)*

Once the court mandate is issued, if a farm has air releases of hazardous substances from animal wastes that are equal to or greater than their reportable quantities (RQs) within any 24-hour period, then they must comply with the reporting requirements of Section 103 of CERCLA. Typical hazardous substances associated with animal wastes include ammonia and hydrogen sulfide. Both of these substances have a reportable quantity of 100 lbs. Therefore, if a farm releases ammonia and/or hydrogen sulfide in amounts  $\geq$  100 lbs within a 24-hour period, then the farm owner or operator must notify the NRC, and provide written reports to the appropriate EPA Regional Office. More detailed directions as to how to make these notifications/reports can be found at EPA's interim guidance: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

This interim guidance also lists resources that may assist farmers in estimating emissions (scroll to the bottom of the interim guidance webpage). We understand that farmers may need to report their releases in broad ranges that reflect the high degree of uncertainty and variability of these releases.

The draft streamlined reporting form for farmers, published for comment on 12/5/17, referred to in Cecil's email, has three sections. Each section contains detailed instructions.

- Section I – Farm location and population information
- Section II – Animal waste source information
- Section III – Hazardous substance information

If you find the instructions do not address the situations of your farmers, then I encourage you to provide comments on the draft streamline reporting form by the deadline of 12/15/17, so the needs of these farmers can be addressed.

In addition, we encourage you to submit your comments or suggestions to [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov). Comments to this box helps determine updates necessary to the interim guidance webpage.

For compliance assistance, you may call the EPCRA, RMP & Oil Information Center at 800-424-9346.

If you have any questions about the information in this email please contact me at 215-814-3293. Thank you.

---

Anne Gilley  
Oil & Prevention Branch  
U.S. EPA Region III  
1650 Arch Street, Mailcode 3HS61  
Philadelphia, PA 19103  
Direct (215) 814-3293  
[gilley.anne@epa.gov](mailto:gilley.anne@epa.gov)

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**From:** Gilley, Anne  
**Sent:** Thursday, December 07, 2017 10:49 AM  
**To:** 'jhatton@wvda.us' <[jhatton@wvda.us](mailto:jhatton@wvda.us)>  
**Subject:** FW: EPA Air quality reg

Hi Mr. Hatton,

I work in the EPCRA program in EPA, Region 3. I'd like to help you with the questions/concerns you sent to Cecil. I spoke with your office manager and she indicated you were on the road. Could you give me a call when you get a chance? I'm at 215-814-3293. Speaking directly, rather than communicating through email, may be most effective. Thanks.

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Anne Gilley  
Oil & Prevention Branch  
U.S. EPA Region III  
1650 Arch Street, Mailcode 3HS61  
Philadelphia, PA 19103  
Direct (215) 814-3293  
[gilley.anne@epa.gov](mailto:gilley.anne@epa.gov)

Begin forwarded message:

**From:** "Hatton, Joseph" <jhatton@wvda.us>  
**Date:** December 6, 2017 at 11:07:35 PM EST  
**To:** "rodrigues.cecil@epa.gov" <rodrigues.cecil@epa.gov>  
**Subject:** EPA Air quality reg

Cecil

I am not locating information I think is important for most of my farmers. In your comments below you are asking all farmers who have livestock in grazing systems to report a reportable release. The information sheets located at the below web portal only provide a sheet requesting the location of the "release". Where will I find the specific substances you want reported and how a farmer is to determine the "release" meets the epa level requiring a notification.

Thanks  
Joe

"For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and aggregate the quantities released for the facility. "

From: Rodrigues, Cecil  
Sent: Tuesday, December 5, 5:41 PM  
Subject: EPCRA/CERLCA air emissions reporting requirements  
To: Hostetter, Gregory, michael.scuse@state.de.us, joe.bartenfelder@maryland.gov, Redding, Russell, basil.gooden@governor.virginia.gov, kleonhardt@wvda.us, Jennings, Kim, Armstrong, Joan, Dunn, Michael, Melvin, Karen, Gilley, Anne, Lewis, Jacqueline, Shenk, Kelly, austin.short@state.de.us, kenneth.bounds@state.de.us, megan.seibel@governor.virginia.gov  
Cc: lisa.wildermuth@state.de.us, deborah.proud@maryland.gov, McCrone, Nicole D, desire.branch-ellis@governor.virginia.gov, rgothard@wvda.us, Reames, Lindsay (GOV), Brown, Karl, Gioffre, Patricia, D'Andrea, Michael, schaffer, joan, Miller, Linda, White, Terri-A

All, I wanted to make sure you are aware of the following updates regarding the EPCRA/CERLCA air emissions reporting requirements.

Streamlined Form for Farmers - EPA published in today's Federal Register (FR) a notice that solicits comments from the public on a draft streamlined reporting form for farmers. The **comment period ends 12/15/17**. The form is not attached to the FR notice, but can be found in the associated docket folder at <https://www.regulations.gov/docket?D=EPA-HQ-SFUND-2007-0469>. It is multi-page and uploaded to the site as three separate files.

EPA continues to accept comments from the public on the [guidance website](#). HQ makes improvements to the site based, in part, on these comments.

Two additional Frequently Asked Questions have been added to the website. They can be found at the following link and are pasted below. Link: <https://www.epa.gov/epcra/cercla-and-epcra->

**Do farms that have cattle that reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?**

Yes. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and aggregate the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

**If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?**

No. For those farmers who have already made their initial continuous release notification, the farmer may wait to submit the written report until the court issues the mandate. Within 30 days of the court mandate, the farmer must submit a written report to the EPA regional office. No additional call or email to the NRC is required.

I will continue to keep let you know when we hear of other updates as they become available. Please call me if you have any questions or you or your staff can contact Joan Armstrong, Associate Director, Office of Enforcement, Hazardous Site Cleanup Division, at [Armstrong.joan@epa.gov](mailto:Armstrong.joan@epa.gov) or [215.814.3155](tel:215.814.3155) or Mike Dunn, Chief of the Oil and Prevention Branch at [dunn.michael@epa.gov](mailto:dunn.michael@epa.gov) or [215.814.2712](tel:215.814.2712).

Thanks. Cecil  
Cecil Rodrigues  
Deputy Regional Administrator  
EPA Region III (3RA00)  
[1650 Arch Street](mailto:1650 Arch Street)  
[Philadelphia, PA 19103](mailto:Philadelphia, PA 19103)  
[215.814.2683](tel:215.814.2683)  
IPhone: [215.266.2960](tel:215.266.2960)

Joseph L. Hatton  
Deputy Commissioner  
WV Department of Agriculture  
[304.558.3200](tel:304.558.3200)

Sent from my iPhone



Message

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**From:** Shenk, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C18C4A63467E43C981E285FBBED6A297-KSHENK]  
**Sent:** 1/17/2018 9:20:32 PM  
**To:** Paula Jasinski [paula@greenfinstudio.com]  
**CC:** Michele Drostin [michele@greenfinstudio.com]  
**Subject:** RE: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Gotcha. Yes, I'll see if we have hardcopies to bring with us. K

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

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**From:** Paula Jasinski [mailto:paula@greenfinstudio.com]  
**Sent:** Wednesday, January 17, 2018 4:07 PM  
**To:** Shenk, Kelly <shenk.kelly@epa.gov>  
**Cc:** Michele Drostin <michele@greenfinstudio.com>  
**Subject:** Re: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Sorry, I just meant a quick announcement about its availability of the new report at the beginning of the DLLC meeting. Not an overview of its contents unless there are just a few bullets worth mentioning, like those related to ag.

**Paula Jasinski**  
**President | Green Fin Studio**  
101 North 5th Street, Suite A  
Richmond, Virginia 23219 US

**804.824.3945**  
[Paula@GreenFinStudio.com](mailto:Paula@GreenFinStudio.com)  
[www.GreenFinStudio.com](http://www.GreenFinStudio.com)  
On social @greenfinstudio

On Jan 17, 2018, at 4:05 PM, Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)> wrote:

Hi Paula, I am not the right person. The Bay Barometer is a full accounting of Bay health beyond agriculture. I recommend you get someone from the CBPO – like Emily Trentecoste.

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
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410 Severn Avenue, Suite 112  
Annapolis, MD 21403

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**From:** Paula Jasinski [<mailto:paula@greenfinstudio.com>]  
**Sent:** Wednesday, January 17, 2018 12:45 PM  
**To:** Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>  
**Cc:** Michele Drostin <[michele@greenfinstudio.com](mailto:michele@greenfinstudio.com)>  
**Subject:** Re: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Kelly,  
Thanks for sharing these with us. Michele sent those to the group earlier today, which you have probably seen.

Would you be interested in providing an overview of the recent Bay Barometer at the Jan. 24th DLLC meeting? Would it be possible for you to bring copies for everyone?

Best,  
Paula

**Paula Jasinski**  
**President | Green Fin Studio**  
101 North 5th Street, Suite A  
Richmond, Virginia 23219 US

**804.824.3945**  
[Paula@GreenFinStudio.com](mailto:Paula@GreenFinStudio.com)  
[www.GreenFinStudio.com](http://www.GreenFinStudio.com)  
On social @greenfinstudio

On Jan 16, 2018, at 7:14 PM, Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)> wrote:

Hi Paula and Michele, can you please forward this important and timely information to the full DLLC membership? Thank you so much! K

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
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Annapolis, MD 21403

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**From:** Shenk, Kelly  
**Sent:** Tuesday, January 16, 2018 7:09 PM  
**Subject:** EPA factsheets on CERCLA-EPCRA reporting for animal waste

Attached are factsheets (in English and Spanish) on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and Frequently Asked Questions is to provide an overview and basic information for those who are impacted by this new requirement. If you have any questions, please contact the Environmental Protection Agency via the information provided below:

- Visit [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) for guidance and access to the continuous release reporting forms
- Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- Region III contacts can be found at this site: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Call with questions: 1-800-424-9346

The factsheets are also available on the CERCLA/EPCRA website. A link is available at the top of the page: [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) or you can link to the factsheets directly at <https://www.epa.gov/epcra/fact-sheet-cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal>.

A public service announcement is expected to be released to ag radio networks later today, and an online toolkit with other outreach materials will also be out soon. For the time being, feel free to share this factsheet with any contacts who may field questions from farmers once the public service announcement airs.

Let me know if you have any questions/concerns.  
Thank you!

Kelly Shenk  
Agriculture Advisor  
EPA Region III Water Protection Division  
[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)  
410.267.5728

Mailing Address:  
EPA Chesapeake Bay Program Office  
410 Severn Avenue, Suite 112  
Annapolis, MD 21403

<CERCLA EPCRA Factsheet FINAL.PDF><CERCLA EPCRA Factsheet  
FINAL (SPANISH).pdf>

## CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms

### Overview

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period.

### Why do I need to report?

In 2008, EPA published a final rule that exempted farms from reporting hazardous substance air releases from animal waste under CERCLA, and only subjected large concentrated animal feeding operations (CAFOs) to Emergency Planning and Community Right-to-Know Act (EPCRA) reporting.

Citizen groups challenged the validity of EPA's rule, and the U.S. Court of Appeals for the DC Circuit struck down EPA's rule on April 11, 2017. Therefore, EPA's regulatory exemption no longer applies. **As a result of the Court decision, farms with animal operations that release certain amounts of hazardous substances will be required to report these air emissions as early as January 22, 2018.**

### When do I need to report?

The Court is expected to issue its order on January 22, 2018. Farms do not have to report until the Court issues its mandate.

### What substances need to be reported?

If a farm releases certain hazardous substances above their designated "Reportable Quantities," then the farm owner or operator must follow the reporting requirements. Ammonia (NH<sub>3</sub>) and hydrogen sulfide (H<sub>2</sub>S) are common hazardous substances emitted from animal waste that require reporting if released to the air in amounts greater than or equal to their Reportable Quantity of 100 lbs within a 24-hour period.

### How do I report for CERCLA?

To comply with CERCLA section 103 reporting requirements for air releases of hazardous substances from animal waste, farms may follow a streamlined reporting process known as "continuous release reporting." This requires the facility owner or operator to:

- Notify the NRC at: [ [HYPERLINK "mailto:farms@uscg.mil"](mailto:farms@uscg.mil) ]. See the adjacent information on the **CERCLA Continuous Release Reporting Process**.
- Submit an initial written notification to the EPA Regional Office (Continuous Release Reporting Form); and
- One year later, submit an additional follow-up written notification to the EPA Regional Office.

### CERCLA Continuous Release Reporting Process

**Step 1:** Provide the NRC with an initial continuous release notification by [ [HYPERLINK "mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil"](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil) ] ([ [HYPERLINK "mailto:farms@uscg.mil"](mailto:farms@uscg.mil) ] ) or by phone (1-800-424-8802). An owner or operator can send one email notification for multiple farms.

Your email should identify that this is an initial continuous release notification and include:

- Name of the farm
- Location of the farm (e.g., name of city/town and state)
- Name(s) of the hazardous substance(s) release (ammonia and/or hydrogen sulfide)

**Note:** The NRC does not require personally identifiable information, such as an address for a private residence. A generic location (name of city/town and state) may be sufficient.

You will receive an email from the NRC with a single identification number (CR-ERNS) for your farm(s). Include the CR-ERNS number on the follow-up report discussed in Step 2.

**Step 2:** Within 30 days of the NRC notification, submit an initial written notification to the EPA Regional Office for the area where the release occurs (see [ [HYPERLINK "http://www.epa.gov/epcra/cr-erns-regional-contacts"](http://www.epa.gov/epcra/cr-erns-regional-contacts) ] ). Use the Continuous Release Reporting Form.

**Step 3:** Submit a one-time first anniversary follow-up report to the EPA Regional Office.

If there are significant changes at your

## Do I need to submit an EPCRA report?

EPA interprets the statute to exclude farms that use substances in “routine agricultural operations” from reporting under EPCRA section 304. This encompasses routine operations at farms, animal feeding operations, nurseries, other horticultural operations, and aquaculture. For more information, see: [ [HYPERLINK "http://www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal"](http://www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal) ]

## How often do I need to estimate emissions?

You must annually review emissions from the farm. You’ll also need to estimate emissions following any significant changes in operations that may result in statistically significant increases (SSI) in emissions.

## How can I reduce emissions?

EPA and United States Department of Agriculture (USDA) developed a reference guide that provides conservation measures for reducing air pollutant emissions and/or reducing air quality impacts from livestock and poultry operations. See: [ [HYPERLINK "http://www.epa.gov/afos-air/agricultural-air-quality-conservation-measures-reference-guide-poultry-and-livestock"](http://www.epa.gov/afos-air/agricultural-air-quality-conservation-measures-reference-guide-poultry-and-livestock) ].

## Are there additional continuous release reporting requirements?

You must immediately notify the NRC of any SSI or of a change in previously submitted release information. This is an ongoing requirement and is most likely to be triggered by:

- An increase in the number of animals maintained on the farm (beyond the range used for the initial report) or
- A significant change (or disruption) in waste handling systems or procedures.

## Do farms that have animals that reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?

Yes. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and aggregate the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

## Additional Resources

- Email comments or suggestions on guidance materials to: [ [HYPERLINK "mailto:CERCLA103.guidance@epa.gov"](mailto:CERCLA103.guidance@epa.gov) ]
- Regional Contacts: [ [HYPERLINK "https://www.epa.gov/epcra/cr-erns-regional-contacts"](https://www.epa.gov/epcra/cr-erns-regional-contacts) ]
- Continuous Release Reporting Forms: [ [HYPERLINK "https://www.epa.gov/animalwaste"](https://www.epa.gov/animalwaste) ]
- National Response Center: 800-424-8802 or [ [HYPERLINK "mailto:farms@uscg.mil"](mailto:farms@uscg.mil) ].

## Estimating Emissions

EPA recognizes it will be challenging for farmers to estimate releases because there is no generally accepted methodology for estimating these emissions at this time.

EPA is working on completing the National Air Emissions Monitoring Study (NAEMS). NAEMS will help the agency develop methodologies to estimate emissions from a wide variety of types of CAFOs and thus better inform emission estimates from animal waste. However, that work will not be completed prior to the Court’s mandate that farms report.

To help you comply with the Court’s requirement, EPA has made resources available on its website that may be helpful in estimating emissions. You may also use other models for estimating emissions. Monitoring data is not required.

Finally, you may estimate quantities of releases by relying on:

- Past release data;
- Engineering estimates;
- Your knowledge of the facility’s operations and release history; or
- Your best professional judgment.

Farmers should keep a copy of the calculation for future reference.

For more information, please see the Resources link at: [ [HYPERLINK](#) ]

### Questions?

- See the CERCLA and EPCRA guidance for more information: [ [HYPERLINK "https://www.epa.gov/animalwaste"](https://www.epa.gov/animalwaste) ]
- Call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346 for compliance assistance

Message

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**From:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Sent:** 1/16/2018 9:29:57 PM  
**To:** EPA AFO Program Listserve [afo\_listserve@lists.epa.gov]  
**Subject:** [afo\_listserve] FW: EPA factsheets on CERCLA-EPCRA reporting for animal waste

FYI, please see the announcement below from EPA's Office of Emergency Management regarding a new factsheet for outreach on CERCLA-EPCRA reporting for animal waste.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

-----

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and FAQs is to provide an overview and basic information for those who are impacted by this new requirement.

If you have any questions, please contact the Environmental Protection Agency via the information provided below:

- Visit [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) for guidance and access to the continuous release reporting forms (including [new factsheet](#))
- Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- Regional Contacts: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Call with questions: 1-800-424-9346

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You are currently subscribed to afo\_listserve as: subramanian.hema@epa.gov

To unsubscribe, send a blank email to leave-1688259-2423262.2548bafb206456cec44d207ed95a7654@lists.epa.gov

OR:

Use the listserver's web interface at [https://lists.epa.gov/read/?forum=afo\\_listserve](https://lists.epa.gov/read/?forum=afo_listserve) to manage your subscription.

For problems with this list, contact [afo\\_listserve-Owner@lists.epa.gov](mailto:afo_listserve-Owner@lists.epa.gov)

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Message

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**From:** Michael Formica [formicam@nppc.org]  
**Sent:** 1/16/2018 9:26:38 PM  
**To:** Subramanian, Hema [Subramanian.Hema@epa.gov]  
**Subject:** RE: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Thanks!

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**From:** Subramanian, Hema [mailto:Subramanian.Hema@epa.gov]  
**Sent:** Tuesday, January 16, 2018 4:26 PM  
**To:** Subramanian, Hema <Subramanian.Hema@epa.gov>  
**Subject:** FW: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Dear Animal Ag Discussion Group participants:

FYI, please see the announcement below from EPA's Office of Emergency Management regarding a new factsheet for outreach on CERCLA-EPCRA reporting for animal waste.

Thank you,  
---Hema.

---

Hema Subramanian  
Special Assistant to the Senior Advisor for Agriculture (detail)  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and FAQs is to provide an overview and basic information for those who are impacted by this new requirement.

If you have any questions, please contact the Environmental Protection Agency via the information provided below:

- Visit [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) for guidance and access to the continuous release reporting forms (including [new factsheet](#))
- Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- Regional Contacts: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Call with questions: 1-800-424-9346



Message

---

**From:** Roose, Rebecca [Roose.Rebecca@epa.gov]  
**Sent:** 10/31/2017 8:49:50 PM  
**To:** Galloway, Carol [Galloway.Carol@epa.gov]; Utting, George [Utting.George@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]; Lischinsky, Robert [Lischinsky.Robert@epa.gov]  
**Subject:** FW: Continuous air releases from livestock and poultry reports go to EPA

FYII Iowa DNR notice out to their listserv.

---

**From:** Iowa DNR [mailto:IowaDNR@public.govdelivery.com]  
**Sent:** Tuesday, October 31, 2017 3:36 PM  
**To:** Roose, Rebecca <Roose.Rebecca@epa.gov>  
**Subject:** Continuous air releases from livestock and poultry reports go to EPA

Having trouble viewing this email? [View it as a Web page.](#)

## Report continuous air releases from livestock and poultry operations to EPA by Nov. 15

**PLEASE NOTE:** *Continuous releases must be reported to the National Response Center, not the Iowa DNR. Please refer questions about the requirements to [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov); [press@epa.gov](mailto:press@epa.gov); or Jodi Harper at 913-551-7483 or Scott D. Hayes at 913-551-7670 at U.S. Environmental Protection Agency Region VII.*

Last Thursday the U.S. Environmental Protection Agency released interim guidance for livestock and poultry producers who must report ongoing air releases of hazardous substances, typically ammonia and hydrogen sulfide, to EPA by Nov 15.

Since 2008, EPA had exempted all but larger farm facilities from reporting continuous air releases of ammonia and hydrogen sulfide. An April 2017 decision from the U.S. Court of Appeals for the District of Columbia Circuit Court struck down that exemption.

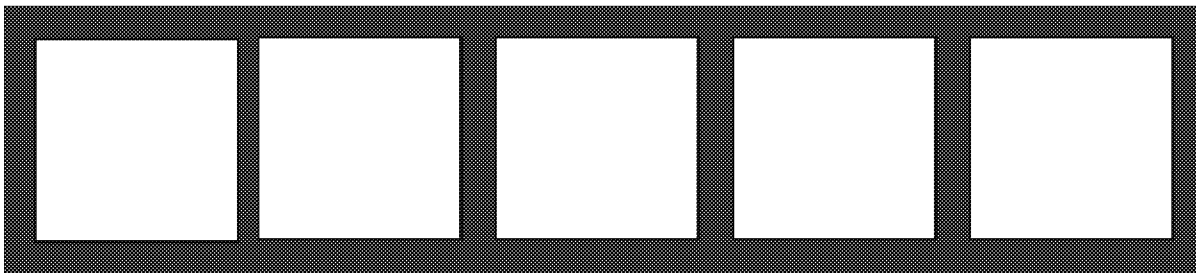
Unless the DC Circuit Court takes further action, the court's decision takes effect Nov. 15 for all livestock and poultry facilities--such as swine, beef cattle, dairy cattle, poultry, horses--and will require facilities to report ongoing air releases that equal or exceed the reportable quantity of 100 pounds of ammonia or hydrogen sulfide within any 24-hour period.

Those facilities that emit reportable quantities must make an "initial continuous release notification" by calling the National Response Center at 800-424-8802. The facilities can then follow up with a written "continuous release report" to the [EPA Region 7 office](#).

DNR will not be collecting this information, so there is no need to call DNR or your local emergency management office.

Find out more about who must report and how to estimate emissions, including examples, on EPA's web page at [www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms](http://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms).

EPA is accepting comments or suggestions on the guidance through Nov. 24 at [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov). Find EPA's press release at [www.epa.gov/newsreleases/epa-releases-guidance-reporting-air-emissions-hazardous-substances-animal-waste-farms](http://www.epa.gov/newsreleases/epa-releases-guidance-reporting-air-emissions-hazardous-substances-animal-waste-farms).

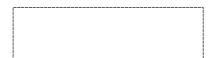


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This email was sent to roose.rebecca@epa.gov using GovDelivery Communications Cloud on behalf of: State of Iowa · 1007 E Grand Ave · Des Moines, IA 50319



Message

---

**From:** Gioffre, Patricia [Gioffre.Patricia@epa.gov]  
**Sent:** 10/30/2017 3:45:37 PM  
**To:** Subramanian, Hema [Subramanian.Hema@epa.gov]  
**Subject:** RE: Thanks to AADG--and new CERCLA EPCRA Ag Guidance released

Thanks so much Hema!

-----  
Patty Gioffre  
US EPA/OLEM/OEM  
202-564-1972

Cellular Phone / Ex. 6

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---

**From:** Subramanian, Hema  
**Sent:** Friday, October 27, 2017 1:50 PM  
**To:** Gioffre, Patricia <Gioffre.Patricia@epa.gov>  
**Subject:** RE: Thanks to AADG--and new CERCLA EPCRA Ag Guidance released

No problem, Patty. And congratulations on the release. Here are the main animal ag contacts from my most recent AADG list who wouldn't mind being included in your outreach list (many of the others in my email were just speakers at our event):

[kim@aginspirations.com](mailto:kim@aginspirations.com); [donp@fb.org](mailto:donp@fb.org); [danielleq@fb.org](mailto:danielleq@fb.org); [tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com); [Chad.Frahm@rosedmi.com](mailto:Chad.Frahm@rosedmi.com); [John.Monaghan@dairy.org](mailto:John.Monaghan@dairy.org); [karen.scanlon@dairy.org](mailto:karen.scanlon@dairy.org); [syager@beef.org](mailto:syager@beef.org); [apeterson@chickenusa.org](mailto:apeterson@chickenusa.org); [kbillings@ncfc.org](mailto:kbillings@ncfc.org); [lvandoren@ncfc.org](mailto:lvandoren@ncfc.org); [cdetlefsen@nmpf.org](mailto:cdetlefsen@nmpf.org); Michael Formica <[formicam@nppc.org](mailto:formicam@nppc.org)>; [dwells@turkeyfed.org](mailto:dwells@turkeyfed.org); [cgarrison@garrisonsgroup.com](mailto:cgarrison@garrisonsgroup.com); [pbredwell@poultryegg.org](mailto:pbredwell@poultryegg.org); [crichter@thepolicygroup.com](mailto:crichter@thepolicygroup.com); GDYoung4 <[GDYoung4@personal.email](mailto:GDYoung4@personal.email)> Personal Email / Ex. 6; [kwesterbeek@smithfield.com](mailto:kwesterbeek@smithfield.com); [cal@creightonbrothersllc.com](mailto:cal@creightonbrothersllc.com); [billk@cooperfarms.com](mailto:billk@cooperfarms.com); [jamie.burr@tyson.com](mailto:jamie.burr@tyson.com); [cousercattle@iowatelecom.net](mailto:cousercattle@iowatelecom.net); [iowariverranch@heartofiowa.net](mailto:iowariverranch@heartofiowa.net); [tom.mcdonald@jbssa.com](mailto:tom.mcdonald@jbssa.com); [rholladay@cmfoods.com](mailto:rholladay@cmfoods.com); [mhart@beef.org](mailto:mhart@beef.org); Paul Bredwell <[pbredwell@uspoultry.org](mailto:pbredwell@uspoultry.org)>; Frahm, Chad <[Chad.Frahm@dairy.org](mailto:Chad.Frahm@dairy.org)>;

Also, the Oregon Young Dairy Farmers Association came in to meet with EPA a few weeks ago and this reporting requirement and guidance came up in that meeting. Here is a contact there, if you'd like to include them in your outreach: [tammy.dennee@oregondairyfarmers.org](mailto:tammy.dennee@oregondairyfarmers.org)

You can let any of these folks know I referred them to you if needed.

Thank you,  
---Hema.

-----  
Hema Subramanian  
Environmental Protection Specialist  
U.S. Environmental Protection Agency  
Office of Water: Office of Wastewater Management/Water Permits Division/Rural Branch  
1200 Pennsylvania Avenue, NW  
Mail Code 4203M  
Washington, DC 20460

Phone (202) 564-5041  
[subramanian.hema@epa.gov](mailto:subramanian.hema@epa.gov)

---

**From:** Gioffre, Patricia  
**Sent:** Thursday, October 26, 2017 12:25 PM  
**To:** Subramanian, Hema <[Subramanian.Hema@epa.gov](mailto:Subramanian.Hema@epa.gov)>  
**Subject:** RE: Thanks to AADG--and new CERCLA EPCRA Ag Guidance released

Thanks so much Hema!

---

Patty Gioffre  
US EPA/OLEM/OEM  
202-564-1972

**Cellular Phone / Ex. 6**

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---

**From:** Subramanian, Hema  
**Sent:** Thursday, October 26, 2017 12:09 PM  
**To:** Ziobro, Joseph <[Ziobro.Joseph@epa.gov](mailto:Ziobro.Joseph@epa.gov)>; [kim@aginspirations.com](mailto:kim@aginspirations.com); [donp@fb.org](mailto:donp@fb.org); [danielleg@fb.org](mailto:danielleg@fb.org); [tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com); [Chad.Frahm@rosedmi.com](mailto:Chad.Frahm@rosedmi.com); [John.Monaghan@dairy.org](mailto:John.Monaghan@dairy.org); [karen.scanlon@dairy.org](mailto:karen.scanlon@dairy.org); [syager@beef.org](mailto:syager@beef.org); [apeterson@chickenusa.org](mailto:apeterson@chickenusa.org); [kbillings@ncfc.org](mailto:kbillings@ncfc.org); [lvandoren@ncfc.org](mailto:lvandoren@ncfc.org); [cdetlefsen@nmpf.org](mailto:cdetlefsen@nmpf.org); Michael Formica <[formicam@nppc.org](mailto:formicam@nppc.org)>; [dwells@turkeyfed.org](mailto:dwells@turkeyfed.org); [cgarrison@garrisonsongroup.com](mailto:cgarrison@garrisonsongroup.com); [pbredwell@poultryegg.org](mailto:pbredwell@poultryegg.org); [crichter@thepolicygroup.com](mailto:crichter@thepolicygroup.com); GDYoung4 {[Personal Email / Ex. 6](#)}; [kwesterbeek@smithfield.com](mailto:kwesterbeek@smithfield.com); [cal@creightonbrothersllc.com](mailto:cal@creightonbrothersllc.com); [billk@cooperfarms.com](mailto:billk@cooperfarms.com); [jamie.burr@tyson.com](mailto:jamie.burr@tyson.com); [cousercattle@iowatelecom.net](mailto:cousercattle@iowatelecom.net); [iowariverranch@heartofiowa.net](mailto:iowariverranch@heartofiowa.net); [tom.mcdonald@jbssa.com](mailto:tom.mcdonald@jbssa.com); [rholladay@cmfoods.com](mailto:rholladay@cmfoods.com); [tmbass@montana.edu](mailto:tmbass@montana.edu); [mrisse@uga.edu](mailto:mrisse@uga.edu); Glenn Carpenter <[glenn.carpenter@wdc.usda.gov](mailto:glenn.carpenter@wdc.usda.gov)>; [gary.kelman@maryland.gov](mailto:gary.kelman@maryland.gov); Woodmansey, Kent <[Kent.Woodmansey@state.sd.us](mailto:Kent.Woodmansey@state.sd.us)>; Ferris, Lena <[Ferris.Lena@epa.gov](mailto:Ferris.Lena@epa.gov)>; Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>; Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Jones, Kristin <[jones.kristin@epa.gov](mailto:jones.kristin@epa.gov)>; Best-Wong, Benita <[Best-Wong.Benita@epa.gov](mailto:Best-Wong.Benita@epa.gov)>; Wall, Tom <[Wall.Tom@epa.gov](mailto:Wall.Tom@epa.gov)>; Pollins, Mark <[Pollins.Mark@epa.gov](mailto:Pollins.Mark@epa.gov)>; Theis, Joseph <[Theis.Joseph@epa.gov](mailto:Theis.Joseph@epa.gov)>; Shenk, Kelly <[shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov)>; Robertson, Duane <[Robertson.Duane@epa.gov](mailto:Robertson.Duane@epa.gov)>; Winn, G. Dean <[winn.gerald@epa.gov](mailto:winn.gerald@epa.gov)>; Socha, Julianne <[socha.julianne@epa.gov](mailto:socha.julianne@epa.gov)>; Burdett, Cheryl <[burdett.cheryl@epa.gov](mailto:burdett.cheryl@epa.gov)>; Rush, Randall <[Rush.Randall@epa.gov](mailto:Rush.Randall@epa.gov)>; Saunders, Jerry <[Saunders.Jerry@epa.gov](mailto:Saunders.Jerry@epa.gov)>; Hamilton, Denise <[Hamilton.Denise@epa.gov](mailto:Hamilton.Denise@epa.gov)>; Cooper, WilliamF <[Cooper.WilliamF@epa.gov](mailto:Cooper.WilliamF@epa.gov)>; Galloway, Carol <[Galloway.Carol@epa.gov](mailto:Galloway.Carol@epa.gov)>; Perrin, Rebecca <[Perrin.Rebecca@epa.gov](mailto:Perrin.Rebecca@epa.gov)>; Miller, Amy <[Miller.Amy@epa.gov](mailto:Miller.Amy@epa.gov)>; Mitschele, Becky <[Mitschele.Becky@epa.gov](mailto:Mitschele.Becky@epa.gov)>; Peak, Nicholas <[Peak.Nicholas@epa.gov](mailto:Peak.Nicholas@epa.gov)>; [bhammerich@coloradolivestock.org](mailto:bhammerich@coloradolivestock.org); Winnett, Steven <[winnett.steven@epa.gov](mailto:winnett.steven@epa.gov)>; Heinemann, Kristina <[Heinemann.Kristina@epa.gov](mailto:Heinemann.Kristina@epa.gov)>; Flournoy, Karen <[Flournoy.Karen@epa.gov](mailto:Flournoy.Karen@epa.gov)>; Hall, Lynda <[Hall.Lynda@epa.gov](mailto:Hall.Lynda@epa.gov)>; Larsen, Erika <[Larsen.Erika@epa.gov](mailto:Larsen.Erika@epa.gov)>; Mortensen, Ginah <[mortensen.ginah@epa.gov](mailto:mortensen.ginah@epa.gov)>; Greg Zwicke <[greg.zwicke@ftc.usda.gov](mailto:greg.zwicke@ftc.usda.gov)>; [mhart@beef.org](mailto:mhart@beef.org); LUEHE, DOUGLAS <[luehe.douglas@epa.gov](mailto:luehe.douglas@epa.gov)>; [aneuhart@BrwnCald.com](mailto:aneuhart@BrwnCald.com); MSponsler@coloradocorn.com; [justin.miller@jbssa.com](mailto:justin.miller@jbssa.com); [brad.lubbers@jbssa.com](mailto:brad.lubbers@jbssa.com); [ben@tcfa.org](mailto:ben@tcfa.org); [empiredairy@me.com](mailto:empiredairy@me.com); [jslutsky@lalunadairy.com](mailto:jslutsky@lalunadairy.com); [Sandy.Means@gnb.usda.gov](mailto:Sandy.Means@gnb.usda.gov); [lisa.devore@state.co.us](mailto:lisa.devore@state.co.us); Sands, Jeffrey <[sands.jeffrey@epa.gov](mailto:sands.jeffrey@epa.gov)>; [jim\\_cheatham@nps.gov](mailto:jim_cheatham@nps.gov); [Jimmy.Bramblett@wdc.usda.gov](mailto:Jimmy.Bramblett@wdc.usda.gov); Hosch, Claudia <[hosch.claudia@epa.gov](mailto:hosch.claudia@epa.gov)>  
**Cc:** Paul Bredwell <[pbredwell@uspoultry.org](mailto:pbredwell@uspoultry.org)>; Frahm, Chad <[Chad.Frahm@dairy.org](mailto:Chad.Frahm@dairy.org)>; Hou, James <[Hou.James@epa.gov](mailto:Hou.James@epa.gov)>; Ismert, Peter <[Ismert.Peter@epa.gov](mailto:Ismert.Peter@epa.gov)>; Chad DeVolin <[chad.devolin@state.co.us](mailto:chad.devolin@state.co.us)>; Magruder, DeMara <[Magruder.Demara@epa.gov](mailto:Magruder.Demara@epa.gov)>; Denton, Loren <[Denton.Loren@epa.gov](mailto:Denton.Loren@epa.gov)>; [beckysuu@epa.gov](mailto:beckysuu@epa.gov) {[Personal Email / Ex. 6](#)}; Ashley McDonald <[amcdonald@beef.org](mailto:amcdonald@beef.org)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Nitsch, Chad <[Nitsch.Chad@epa.gov](mailto:Nitsch.Chad@epa.gov)>; [jeffrey.porter@gnb.usda.gov](mailto:jeffrey.porter@gnb.usda.gov); [jayolsen@utah.gov](mailto:jayolsen@utah.gov); Sharpe, Kristinn <[Sharpe.Kristinn@epa.gov](mailto:Sharpe.Kristinn@epa.gov)>; Corona, Elizabeth <[Corona.Elizabeth@epa.gov](mailto:Corona.Elizabeth@epa.gov)>; Jill Heemstra <[jill.heemstra@unl.edu](mailto:jill.heemstra@unl.edu)>; Rathbone, Colleen <[Rathbone.Colleen@epa.gov](mailto:Rathbone.Colleen@epa.gov)>; Gioffre, Patricia <[Gioffre.Patricia@epa.gov](mailto:Gioffre.Patricia@epa.gov)>; Jennings, Kim <[Jennings.Kim@epa.gov](mailto:Jennings.Kim@epa.gov)>; Greenwald, Kathryn

<[Greenwald.Kathryn@epa.gov](mailto:Greenwald.Kathryn@epa.gov)>; Rise, David <[rise.david@epa.gov](mailto:rise.david@epa.gov)>; Bahk, Benjamin <[Bahk.Benjamin@epa.gov](mailto:Bahk.Benjamin@epa.gov)>

**Subject:** Thanks to AADG--and new CERCLA EPCRA Ag Guidance released

Thanks to all who helped to make this week's AADG Meeting and Tour a fantastic convening! We will follow up shortly with presentation materials, etc.

In the meantime, wanted to forward you news that EPA's Office of Emergency Management released guidance yesterday on reporting air releases of hazardous substances from animal waste at farms, in advance of the reporting requirement which becomes effective on November 15<sup>th</sup> under the DC Circuit Court's CERCLA/EPCRA decision. See below for the announcement and link.

Thank you,  
---Hema.

-----  
Hema Subramanian  
Environmental Protection Specialist  
U.S. Environmental Protection Agency  
Office of Water: Office of Wastewater Management/Water Permits Division/Rural Branch  
1200 Pennsylvania Avenue, NW  
Mail Code 4203M  
Washington, DC 20460  
Phone (202) 564-5041  
[subramanian.hema@epa.gov](mailto:subramanian.hema@epa.gov)

**From:** Gioffre, Patricia

**Sent:** Wednesday, October 25, 2017 9:35 PM

**To:** Dunkins, Robin <[Dunkins.Robin@epa.gov](mailto:Dunkins.Robin@epa.gov)>; Costa, Allison <[Costa.Allison@epa.gov](mailto:Costa.Allison@epa.gov)>; Schrock, Bill <[Schrock.Bill@epa.gov](mailto:Schrock.Bill@epa.gov)>; Subramanian, Hema <[Subramanian.Hema@epa.gov](mailto:Subramanian.Hema@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Bonnelycke, Nina <[Bonnelycke.Nina@epa.gov](mailto:Bonnelycke.Nina@epa.gov)>; Mortensen, Ginah <[mortensen.ginah@epa.gov](mailto:mortensen.ginah@epa.gov)>  
**Cc:** Jennings, Kim <[Jennings.Kim@epa.gov](mailto:Jennings.Kim@epa.gov)>; Jacob, Sicy <[Jacob.Sicy@epa.gov](mailto:Jacob.Sicy@epa.gov)>; Ziegel, Dean <[Ziegel.Dean@epa.gov](mailto:Ziegel.Dean@epa.gov)>; Sullivan, Tim <[Sullivan.Tim@epa.gov](mailto:Sullivan.Tim@epa.gov)>; Haas, Craig <[Haas.Craig@epa.gov](mailto:Haas.Craig@epa.gov)>; OLEM OEM Managers <[OLEMOEMManagers@epa.gov](mailto:OLEMOEMManagers@epa.gov)>; Cheatham, Reggie <[cheatham.reggie@epa.gov](mailto:cheatham.reggie@epa.gov)>; Clark, Becki <[Clark.Beki@epa.gov](mailto:Clark.Beki@epa.gov)>; Indermark, Michele <[Indermark.Michele@epa.gov](mailto:Indermark.Michele@epa.gov)>

**Subject:** CERCLA and EPCRA Ag Guidance is now available

I am pleased to announce that the CERCLA/ EPCRA ag guidance is live on the EPA website. The guidance is intended to assist farmers in reporting air releases of hazardous substances from animal waste at farms. EPA is making this information available to provide time for farmers to review and prepare for the reporting obligation, which could become effective as early as November 15, 2017.

On December 18, 2008, EPA published a final rule that exempted certain farms from reporting air releases of hazardous substances from animal waste. On April 11, 2017, the DC Circuit Court vacated this final rule. In response to a request from EPA, the DC Circuit Court extended the date on which its ruling would become effective to November 15, 2017. Unless the court further extends this date, farms (including those previously exempted by EPA's rule) that release hazardous substances to the air from animal wastes equal to or greater than the reportable quantities for those hazardous substances within any 24-hour period must comply with applicable statutory reporting requirements.

To view EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations. Interested parties may submit comments or suggestions by November 24, 2017.

Please share this information with your interested stakeholders and regional contacts.

Best wishes!

-----  
Patty Gioffre  
Acting Deputy Division Director  
USEPA (OLEM/OEM/RID)  
1200 Pennsylvania Ave. NW (5104A)  
Washington, DC 20460  
202-564-1972

Cellular Phone / Ex. 6

-----Original Appointment-----

**From:** Ziobro, Joseph

**Sent:** Thursday, August 24, 2017 5:55 PM

**To:** Ziobro, Joseph; [kim@aginspirations.com](mailto:kim@aginspirations.com); [donp@fb.org](mailto:donp@fb.org); [danielleg@fb.org](mailto:danielleg@fb.org); [tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com); [Chad.Frahm@rosedmi.com](mailto:Chad.Frahm@rosedmi.com); [John.Monaghan@dairy.org](mailto:John.Monaghan@dairy.org); [karen.scanlon@dairy.org](mailto:karen.scanlon@dairy.org); [syager@beef.org](mailto:syager@beef.org); [apeterson@chickenusa.org](mailto:apeterson@chickenusa.org); [kbillings@ncfc.org](mailto:kbillings@ncfc.org); [lvandoren@ncfc.org](mailto:lvandoren@ncfc.org); [cdetlefsen@nmpf.org](mailto:cdetlefsen@nmpf.org); Michael Formica; [dwells@turkeyfed.org](mailto:dwells@turkeyfed.org); [cgarrison@garrisongroup.com](mailto:cgarrison@garrisongroup.com); [pbredwell@poultryegg.org](mailto:pbredwell@poultryegg.org); [crichter@thepolicygroup.com](mailto:crichter@thepolicygroup.com); GDYoung4 Personal Email / Ex. 6; [kwesterbeek@smithfield.com](mailto:kwesterbeek@smithfield.com); [cal@creightonbrothersllc.com](mailto:cal@creightonbrothersllc.com); [billk@cooperfarms.com](mailto:billk@cooperfarms.com); [jamie.burr@tyson.com](mailto:jamie.burr@tyson.com); [cousercattle@iowatelecom.net](mailto:cousercattle@iowatelecom.net); [iowariverranch@heartofiowa.net](mailto:iowariverranch@heartofiowa.net); [tom.mcdonald@jbssa.com](mailto:tom.mcdonald@jbssa.com); [rholladay@cmfoods.com](mailto:rholladay@cmfoods.com); [tmbass@montana.edu](mailto:tmbass@montana.edu); [mrisse@uga.edu](mailto:mrisse@uga.edu); Glenn Carpenter; [gary.kelman@maryland.gov](mailto:gary.kelman@maryland.gov); Woodmansey, Kent; Ferris, Lena; Sawyers, Andrew; Brennan, Ross; Molloy, Jennifer; Subramanian, Hema; Jones, Kristin; Best-Wong, Benita; Wall, Tom; Pollins, Mark; Theis, Joseph; Shenk, Kelly; Robertson, Duane; Winn, G. Dean; Socha, Julianne; Burdett, Cheryl; Rush, Randall; Saunders, Jerry; Hamilton, Denise; Cooper, WilliamF; Galloway, Carol; Perrin, Rebecca; Miller, Amy; Mitschele, Becky; Peak, Nicholas; [bhammerich@coloradolivestock.org](mailto:bhammerich@coloradolivestock.org); Winnett, Steven; Heinemann, Kristina; Flournoy, Karen; Hall, Lynda; Larsen, Erika; Mortensen, Ginah; Greg Zwicke; [mhart@beef.org](mailto:mhart@beef.org); LUEHE, DOUGLAS; [aneuhart@BrwnCald.com](mailto:aneuhart@BrwnCald.com); [MSponsler@coloradocorn.com](mailto:MSponsler@coloradocorn.com); [justin.miller@jbssa.com](mailto:justin.miller@jbssa.com); [brad.lubbers@jbssa.com](mailto:brad.lubbers@jbssa.com); [ben@tcfa.org](mailto:ben@tcfa.org); [empiredairy@me.com](mailto:empiredairy@me.com); [jslutsky@lalunadairy.com](mailto:jslutsky@lalunadairy.com); [Sandy.Means@gnb.usda.gov](mailto:Sandy.Means@gnb.usda.gov); [lisa.devore@state.co.us](mailto:lisa.devore@state.co.us); Sands, Jeffrey; [jim\\_cheatham@nps.gov](mailto:jim_cheatham@nps.gov); [Jimmy.Bramblett@wdc.usda.gov](mailto:Jimmy.Bramblett@wdc.usda.gov); Hosch, Claudia

**Cc:** Paul Bredwell; Frahm, Chad; Hou, James; Ismert, Peter; Chad DeVolin; Magruder, DeMara; Denton, Loren; [beckysuu@gnb.usda.gov](mailto:beckysuu@gnb.usda.gov) Personal Email / Ex. 6; Ashley McDonald; Zobrist, Marcus; Nitsch, Chad; [jeffrey.porter@gnb.usda.gov](mailto:jeffrey.porter@gnb.usda.gov); [jayolsen@utah.gov](mailto:jayolsen@utah.gov); Sharpe, Kristinn; Corona, Elizabeth; Jill Heemstra; Rathbone, Colleen; Gioffre, Patricia; Jennings, Kim; Greenwald, Kathryn; Rise, David; Bahk, Benjamin

**Subject:** Animal Agriculture Discussion Group Meeting

**When:** Monday, October 23, 2017 1:30 PM to Wednesday, October 25, 2017 3:30 PM (UTC-07:00) Mountain Time (US & Canada).

**Where:** 3203 Quebec St, Denver, CO 80207

**Animal Agriculture Discussion Group Meeting, Denver Colorado – Oct. 23 – 25, 2017**

Dear Animal Agriculture Discussion Group:

We look forward to seeing you next week in Colorado. Attached are the following:

- Final Agenda, with webcast/teleconference and logistical information
- Participants list (with RSVPs as of 10/19 morning)
- Menu for dinner on Tuesday the 24<sup>th</sup>

Please note that the times of some sessions in the agenda have shifted slightly.

#### Onsite Contacts:

Kelly Shenk, Agricultural Advisor, EPA Region 4: [shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov), (cell) Cellular Phone / Ex. 6  
 Ross Brennan, Acting Chief of EPA Rural Branch: [Brennan.ross@epa.gov](mailto:Brennan.ross@epa.gov), (ce

Thank you.

- **Hotel and Meeting Location:** Doubletree by Hilton Hotel Denver, 3203 Quebec St, Denver, CO 80207 – **Grand Ballroom IV** (*not Grand "Ballroom I" as listed on the agenda*)
- **Transportation from/to Airport:**
  - Train – The RTD University of Colorado A Line train runs from Denver Airport to Central Park Station for \$9 each way, and the hotel provides a complimentary shuttle from the station (call the hotel at 303-321-3333 when you arrive at the platform to request shuttle). Info at: <http://www.rtd-denver.com/a-line.shtml>
  - Uber - \$23-30 each way; Taxi - Approximately \$55 each way
- **Tours:** Oct. 25
  - Stop 1: Empire Dairy, Wiggins, CO
  - Stop 2: JBS/Five Rivers Cattle Feeding, Kersey, CO
  - Transportation (charter bus) will be provided from meeting location to tour stops and back.
- **Meals:** Per federal policies, EPA is restricted from providing refreshments for this meeting. However, the hotel has cafés and restaurants with food and beverages available for purchase, both onsite and nearby. We will also select locations for some group meals as indicated in the agenda, so please indicate which meeting sections/meals you plan to attend on the registration website, so we can ensure capacity. Boxed lunches with sandwiches/wraps will be pre-ordered for the Wednesday tour, so please also indicate in your registration **by September 23<sup>rd</sup>** if you have any special dietary preferences or restrictions for this meal. Federal employees should to bring cash if interested in participating in the boxed lunch (amount will be announced soon).
- **Telephone and Web-Conference Information:**

- **Phone Conference Line for Audio:** Dial Conference Number / Ex. 6 Passcode Conference Number / Ex. 6

○ Adobe Webcast Link:

**Conference Number / Ex. 6**

For additional information, please contact [Subramanian.hema@epa.gov](mailto:Subramanian.hema@epa.gov) or [Ziobro.joseph@epa.gov](mailto:Ziobro.joseph@epa.gov)

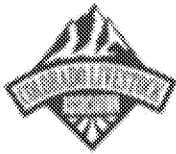


Message

**From:** Bill Hammerich [bhammerich@coloradolivestock.org]  
**Sent:** 10/26/2017 6:56:55 PM  
**To:** Subramanian, Hema [Subramanian.Hema@epa.gov]  
**Subject:** RE: Thanks to AADG--and new CERCLA EPCRA Ag Guidance released

Hema, I thought it was great from start to finish.

Thanx,



**WILLIAM HAMMERICH | CHIEF EXECUTIVE OFFICER**

COLORADO LIVESTOCK ASSOCIATION  
2425 35TH AVENUE, STE 202, GREELEY, CO 80634  
O 970.378.0500 | C 970.381.8379 | F 970.378.1962

---

**From:** Subramanian, Hema [mailto:Subramanian.Hema@epa.gov]  
**Sent:** Thursday, October 26, 2017 10:09 AM  
**To:** Ziobro, Joseph <Ziobro.Joseph@epa.gov>; kim@aginspirations.com; donp@fb.org; daniellemq@fb.org; tom.hebert@bayardridge.com; Chad.Frahm@rosedmi.com; John.Monaghan@dairy.org; karen.scanlon@dairy.org; syager@beef.org; apeterson@chickenusa.org; kbillings@ncfc.org; lvandoren@ncfc.org; cdetlefsen@nmpf.org; Michael Formica <formicam@nppc.org>; dwells@turkeyfed.org; cgarrison@garrisongroup.com; pbredwell@poultryegg.org; crichter@thepolicygroup.com; GDYoung456@aol.com; kwesterbeek@smithfield.com; cal@creightonbrothersllc.com; billk@cooperfarms.com; jamie.burr@tyson.com; cousercattle@iowatelecom.net; iowariverranch@heartofiowa.net; tom.mcdonald@jbssa.com; rholladay@cmfoods.com; tmbass@montana.edu; mrisse@uga.edu; Glenn Carpenter <glenn.carpenter@wdc.usda.gov>; gary.kelman@maryland.gov; Woodmansey, Kent <Kent.Woodmansey@state.sd.us>; Ferris, Lena <Ferris.Lena@epa.gov>; Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Wall, Tom <Wall.Tom@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>; Robertson, Duane <Robertson.Duane@epa.gov>; Winn, G. Dean <winn.gerald@epa.gov>; Socha, Julianne <socha.julianne@epa.gov>; Burdett, Cheryl <burdett.cheryl@epa.gov>; Rush, Randall <Rush.Randall@epa.gov>; Saunders, Jerry <Saunders.Jerry@epa.gov>; Hamilton, Denise <Hamilton.Denise@epa.gov>; Cooper, William F <Cooper.WilliamF@epa.gov>; Galloway, Carol <Galloway.Carol@epa.gov>; Perrin, Rebecca <Perrin.Rebecca@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>; Mitschele, Becky <Mitschele.Becky@epa.gov>; Peak, Nicholas <Peak.Nicholas@epa.gov>; Bill Hammerich <bhammerich@coloradolivestock.org>; Winnett, Steven <winnett.steven@epa.gov>; Heinemann, Kristina <Heinemann.Kristina@epa.gov>; Flournoy, Karen <Flournoy.Karen@epa.gov>; Hall, Lynda <Hall.Lynda@epa.gov>; Larsen, Erika <Larsen.Erika@epa.gov>; Mortensen, Ginah <mortensen.ginah@epa.gov>; Greg Zwicke <greg.zwicke@ftc.usda.gov>; mhart@beef.org; LUEHE, DOUGLAS <luehe.douglas@epa.gov>; aneuhart@BrwnCald.com; MSponsler@coloradocorn.com; justin.miller@jbssa.com; brad.lubbers@jbssa.com; ben@tcfa.org; empiroidairy@me.com; jslutsky@lalunadairy.com; Sandy.Means@gnb.usda.gov; lisa.devore@state.co.us; Sands, Jeffrey <sands.jeffrey@epa.gov>; jim\_cheatham@nps.gov; Jimmy.Bramblett@wdc.usda.gov; Hosch, Claudia <hosch.claudia@epa.gov>  
**Cc:** Paul Bredwell <pbredwell@uspoultry.org>; Frahm, Chad <Chad.Frahm@dairy.org>; Hou, James <Hou.James@epa.gov>; Ismert, Peter <Ismert.Peter@epa.gov>; Chad DeVolin <chad.devolin@state.co.us>; Magruder, DeMara <Magruder.Demara@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; becksuu@yahoo.com; Ashley McDonald <amcdonald@beef.org>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Nitsch, Chad <Nitsch.Chad@epa.gov>; jeffrey.porter@gnb.usda.gov; jayolsen@utah.gov; Sharpe, Kristinn <Sharpe.Kristinn@epa.gov>; Corona, Elizabeth <Corona.Elizabeth@epa.gov>; Jill Heemstra <jill.heemstra@unl.edu>; Rathbone, Colleen <Rathbone.Colleen@epa.gov>;

Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Rise, David <rise.david@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>

**Subject:** Thanks to AADG--and new CERCLA EPCRA Ag Guidance released

Thanks to all who helped to make this week's AADG Meeting and Tour a fantastic convening! We will follow up shortly with presentation materials, etc.

In the meantime, wanted to forward you news that EPA's Office of Emergency Management released guidance yesterday on reporting air releases of hazardous substances from animal waste at farms, in advance of the reporting requirement which becomes effective on November 15<sup>th</sup> under the DC Circuit Court's CERCLA/EPCRA decision. See below for the announcement and link.

Thank you,  
---Hema.

-----  
Hema Subramanian  
Environmental Protection Specialist  
U.S. Environmental Protection Agency  
Office of Water: Office of Wastewater Management/Water Permits Division/Rural Branch  
1200 Pennsylvania Avenue, NW  
Mail Code 4203M  
Washington, DC 20460  
Phone (202) 564-5041  
[subramanian.hema@epa.gov](mailto:subramanian.hema@epa.gov)

**From:** Gioffre, Patricia

**Sent:** Wednesday, October 25, 2017 9:35 PM

**To:** Dunkins, Robin <[Dunkins.Robin@epa.gov](mailto:Dunkins.Robin@epa.gov)>; Costa, Allison <[Costa.Allison@epa.gov](mailto:Costa.Allison@epa.gov)>; Schrock, Bill <[Schrock.Bill@epa.gov](mailto:Schrock.Bill@epa.gov)>; Subramanian, Hema <[Subramanian.Hema@epa.gov](mailto:Subramanian.Hema@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Bonnelycke, Nina <[Bonnelycke.Nina@epa.gov](mailto:Bonnelycke.Nina@epa.gov)>; Mortensen, Ginah <[mortensen.ginah@epa.gov](mailto:mortensen.ginah@epa.gov)>

**Cc:** Jennings, Kim <[Jennings.Kim@epa.gov](mailto:Jennings.Kim@epa.gov)>; Jacob, Sicy <[Jacob.Sicy@epa.gov](mailto:Jacob.Sicy@epa.gov)>; Ziegel, Dean <[Ziegel.Dean@epa.gov](mailto:Ziegel.Dean@epa.gov)>; Sullivan, Tim <[Sullivan.Tim@epa.gov](mailto:Sullivan.Tim@epa.gov)>; Haas, Craig <[Haas.Craig@epa.gov](mailto:Haas.Craig@epa.gov)>; OLEM OEM Managers <[OLEMOEMManagers@epa.gov](mailto:OLEMOEMManagers@epa.gov)>; Cheatham, Reggie <[cheatham.reggie@epa.gov](mailto:cheatham.reggie@epa.gov)>; Clark, Becki <[Clark.Beki@epa.gov](mailto:Clark.Beki@epa.gov)>; Indermark, Michele <[Indermark.Michele@epa.gov](mailto:Indermark.Michele@epa.gov)>

**Subject:** CERCLA and EPCRA Ag Guidance is now available

I am pleased to announce that the CERCLA/ EPCRA ag guidance is live on the EPA website. The guidance is intended to assist farmers in reporting air releases of hazardous substances from animal waste at farms. EPA is making this information available to provide time for farmers to review and prepare for the reporting obligation, which could become effective as early as November 15, 2017.

On December 18, 2008, EPA published a final rule that exempted certain farms from reporting air releases of hazardous substances from animal waste. On April 11, 2017, the DC Circuit Court vacated this final rule. In response to a request from EPA, the DC Circuit Court extended the date on which its ruling would become effective to November 15, 2017. Unless the court further extends this date, farms (including those previously exempted by EPA's rule) that release hazardous substances to the air from animal wastes equal to or greater than the reportable quantities for those hazardous substances within any 24-hour period must comply with applicable statutory reporting requirements.

To view EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations. Interested parties may submit comments or suggestions by November 24, 2017.

Please share this information with your interested stakeholders and regional contacts.

Best wishes!

-----  
Patty Gioffre  
Acting Deputy Division Director  
USEPA (OLEM/OEM/RID)  
1200 Pennsylvania Ave. NW (5104A)  
Washington, DC 20460  
202-564-1972  
202-748-7139 (cell)

-----Original Appointment-----

**From:** Ziobro, Joseph

**Sent:** Thursday, August 24, 2017 5:55 PM

**To:** Ziobro, Joseph; [kim@aginspirations.com](mailto:kim@aginspirations.com); [donp@fb.org](mailto:donp@fb.org); [danielleg@fb.org](mailto:danielleg@fb.org); [tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com); [Chad.Frahm@rosedmi.com](mailto:Chad.Frahm@rosedmi.com); [John.Monaghan@dairy.org](mailto:John.Monaghan@dairy.org); [karen.scanlon@dairy.org](mailto:karen.scanlon@dairy.org); [syager@beef.org](mailto:syager@beef.org); [apeterson@chickenusa.org](mailto:apeterson@chickenusa.org); [kbillings@ncfc.org](mailto:kbillings@ncfc.org); [lvandoren@ncfc.org](mailto:lvandoren@ncfc.org); [cdetlefsen@nmpf.org](mailto:cdetlefsen@nmpf.org); Michael Formica; [dwells@turkeyfed.org](mailto:dwells@turkeyfed.org); [cgarrison@garrisongroup.com](mailto:cgarrison@garrisongroup.com); [pbredwell@poultryegg.org](mailto:pbredwell@poultryegg.org); [crichter@thepolicygroup.com](mailto:crichter@thepolicygroup.com); [GDYoung456@aol.com](mailto:GDYoung456@aol.com); [kwesterbeek@smithfield.com](mailto:kwesterbeek@smithfield.com); [cal@creightonbrothersllc.com](mailto:cal@creightonbrothersllc.com); [billk@cooperfarms.com](mailto:billk@cooperfarms.com); [jamie.burr@tyson.com](mailto:jamie.burr@tyson.com); [cousercattle@iowatelecom.net](mailto:cousercattle@iowatelecom.net); [iowariverranch@heartofiowa.net](mailto:iowariverranch@heartofiowa.net); [tom.mcdonald@jbssa.com](mailto:tom.mcdonald@jbssa.com); [rholladay@cmfoods.com](mailto:rholladay@cmfoods.com); [tmbass@montana.edu](mailto:tmbass@montana.edu); [mrisse@uga.edu](mailto:mrisse@uga.edu); Glenn Carpenter; [gary.kelman@maryland.gov](mailto:gary.kelman@maryland.gov); Woodmansey, Kent; Ferris, Lena; Sawyers, Andrew; Brennan, Ross; Molloy, Jennifer; Subramanian, Hema; Jones, Kristin; Best-Wong, Benita; Wall, Tom; Pollins, Mark; Theis, Joseph; Shenk, Kelly; Robertson, Duane; Winn, G. Dean; Socha, Julianne; Burdett, Cheryl; Rush, Randall; Saunders, Jerry; Hamilton, Denise; Cooper, WilliamF; Galloway, Carol; Perrin, Rebecca; Miller, Amy; Mitschele, Becky; Peak, Nicholas; [bhammerich@coloradolivestock.org](mailto:bhammerich@coloradolivestock.org); Winnett, Steven; Heinemann, Kristina; Flournoy, Karen; Hall, Lynda; Larsen, Erika; Mortensen, Ginah; Greg Zwicke; [mhart@beef.org](mailto:mhart@beef.org); LUEHE, DOUGLAS; [aneuhart@BrwnCald.com](mailto:aneuhart@BrwnCald.com); [MSponsler@coloradocorn.com](mailto:MSponsler@coloradocorn.com); [justin.miller@jbssa.com](mailto:justin.miller@jbssa.com); [brad.lubbers@jbssa.com](mailto:brad.lubbers@jbssa.com); [ben@tcfa.org](mailto:ben@tcfa.org); [empiredairy@me.com](mailto:empiredairy@me.com); [jslutsky@lalunadairy.com](mailto:jslutsky@lalunadairy.com); [Sandy.Means@gnb.usda.gov](mailto:Sandy.Means@gnb.usda.gov); [lisa.devore@state.co.us](mailto:lisa.devore@state.co.us); Sands, Jeffrey; [jim\\_cheatham@nps.gov](mailto:jim_cheatham@nps.gov); [Jimmy.Bramblett@wdc.usda.gov](mailto:Jimmy.Bramblett@wdc.usda.gov); Hosch, Claudia

**Cc:** Paul Bredwell; Frahm, Chad; Hou, James; Ismert, Peter; Chad DeVolin; Magruder, DeMara; Denton, Loren; [beckysuu@yahoo.com](mailto:beckysuu@yahoo.com); Ashley McDonald; Zobrist, Marcus; Nitsch, Chad; [jeffrey.porter@gnb.usda.gov](mailto:jeffrey.porter@gnb.usda.gov); [jayolsen@utah.gov](mailto:jayolsen@utah.gov); Sharpe, Kristinn; Corona, Elizabeth; Jill Heemstra; Rathbone, Colleen; Gioffre, Patricia; Jennings, Kim; Greenwald, Kathryn; Rise, David; Bahk, Benjamin

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- Final Agenda, with webcast/teleconference and logistical information
- Participants list (with RSVPs as of 10/19 morning)
- Menu for dinner on Tuesday the 24<sup>th</sup>

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#### Onsite Contacts:

Kelly Shenk, Agricultural Advisor, EPA Region 4: [shenk.kelly@epa.gov](mailto:shenk.kelly@epa.gov), (cell) 410-267-5728  
 Ross Brennan, Acting Chief of EPA Rural Branch: [Brennan.ross@epa.gov](mailto:Brennan.ross@epa.gov), (cell) 202-286-6795

Thank you.

- **Hotel and Meeting Location:** Doubletree by Hilton Hotel Denver, 3203 Quebec St, Denver, CO 80207 – **Grand Ballroom IV** (*not Grand “Ballroom I” as listed on the agenda*)
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  - Uber - \$23-30 each way; Taxi - Approximately \$55 each way
- **Tours:** Oct. 25
  - Stop 1: Empire Dairy, Wiggins, CO
  - Stop 2: JBS/Five Rivers Cattle Feeding, Kersey, CO
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- **Telephone and Web-Conference Information:**
  - **Phone Conference Line for Audio:** **Conference Number / Ex. 6**

- **Adobe Webcast Link:** [http://epawebconferencing.acms.com/aadg\\_april2017/](http://epawebconferencing.acms.com/aadg_april2017/)

For additional information, please contact [Subramanian.hema@epa.gov](mailto:Subramanian.hema@epa.gov) or [Ziobro.joseph@epa.gov](mailto:Ziobro.joseph@epa.gov)

Message

---

**From:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Sent:** 10/26/2017 11:30:49 AM  
**To:** EPA AFO Program Listserve [afo\_listserve@lists.epa.gov]  
**Subject:** [afo\_listserve] CERCLA and EPCRA Ag Guidance is now available

Just passing this along from our Office of Emergency Management.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Gioffre, Patricia  
**Sent:** Wednesday, October 25, 2017 9:35 PM  
**Subject:** CERCLA and EPCRA Ag Guidance is now available

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Best wishes!

-----  
Patty Gioffre  
Acting Deputy Division Director  
USEPA (OLEM/OEM/RID)  
1200 Pennsylvania Ave. NW (5104A)  
Washington, DC 20460  
202-564-1972  
202-748-7139 (cell)

-----  
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Message

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**From:** Subramanian, Hema [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=65E089600E8B4724A2E85997849BD208-SUBRAMANIAN, HEMA]  
**Sent:** 1/17/2018 9:08:42 PM  
**To:** Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Latosha Thomas (Thomas.Latosha@epa.gov) [Thomas.Latosha@epa.gov]  
**Subject:** FW: EPRCA Reporting for Farms

Below is the email that Steve Winnett was referring to on the 2:30 call. Thanks much for jumping on – we know you are juggling a lot over there.

---

Hema Subramanian  
Special Assistant to the Senior Advisor for Agriculture (detail)  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
Phone (202) 564-5041  
[subramanian.hema@epa.gov](mailto:subramanian.hema@epa.gov)

---

**From:** Sands, Jeffrey  
**Sent:** Wednesday, January 17, 2018 11:56 AM  
**To:** Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>  
**Cc:** Subramanian, Hema <Subramanian.Hema@epa.gov>  
**Subject:** FW: EPRCA Reporting for Farms

FYI....

As outreach materials have been dispersed, follow-up questions have started to come in.

Wanted to make sure you saw this as Department of Ag in Vermont (with Sen. Leahy office tagged) weighed in on the guidance materials available. We are working with OLEM to figure out a way to route these questions with a referral rather than continual one-offs on specifics for the program offices. If you wind up scheduling any follow-up calls to accommodate any members or with states, you may want to be sure that OLEM staff is available to join in. Ag Advisors in the regions generally have the relationships needed but are likely not an expert on this statute and would need to defer some of these questions to the program office.

---

**From:** Winnett, Steven  
**Sent:** Wednesday, January 17, 2018 11:11 AM  
**To:** Sands, Jeffrey <[sands.jeffrey@epa.gov](mailto:sands.jeffrey@epa.gov)>; Subramanian, Hema <[Subramanian.Hema@epa.gov](mailto:Subramanian.Hema@epa.gov)>  
**Cc:** Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>; Szaro, Deb <[Szaro.Deb@epa.gov](mailto:Szaro.Deb@epa.gov)>; Gutro, Doug <[Gutro.Doug@epa.gov](mailto:Gutro.Doug@epa.gov)>; Melanson, Kate <[Melanson.Kate@epa.gov](mailto:Melanson.Kate@epa.gov)>; Hamjian, Lynne <[Hamjian.Lynne@epa.gov](mailto:Hamjian.Lynne@epa.gov)>; Dart, Denny <[Dart.Denny@epa.gov](mailto:Dart.Denny@epa.gov)>  
**Subject:** FW: EPRCA Reporting for Farms

Hi Jeff and Hema,



I'm passing along comments we received from Vermont, which they copied to Senator Leahy's office. They continue to have concerns about the usefulness of the information EPA is providing to farmers about estimating their air emissions for the new requirements.

Are we going to be providing more or clearer information about emissions that will address their concerns?

Thanks very much for your help.

Steve

Steven Winnett  
U.S. EPA New England  
5 Post Office Square, Suite 100 (OEP06-2)  
Boston, MA 02109-3912  
ph. 617-918-1687  
FAX -0687

**Cellular Phone / Ex. 6**  
email: [winnett.steven@epa.gov](mailto:winnett.steven@epa.gov)

---

**From:** Melanson, Kate  
**Sent:** Wednesday, January 17, 2018 8:10 AM  
**To:** Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>  
**Cc:** Winnett, Steven <[winnett.steven@epa.gov](mailto:winnett.steven@epa.gov)>; Gutro, Doug <[Gutro.Doug@epa.gov](mailto:Gutro.Doug@epa.gov)>; Szaro, Deb <[Szaro.Deb@epa.gov](mailto:Szaro.Deb@epa.gov)>  
**Subject:** FW: EPRCA Reporting for Farms

Good Morning –

We've already received some feedback from Vermont Ag on the updated materials with a copy to Leahy's office.

It could be useful for DC to see. Would you like to forward this down to Jeff Sands? If not, Steve said he can pass it along.

Steve and I are speaking with Diane this morning.

Thanks!  
-Kate

---

**From:** Bothfeld, Diane [<mailto:Diane.Bothfeld@vermont.gov>]  
**Sent:** Wednesday, January 17, 2018 7:21 AM  
**To:** Melanson, Kate <[Melanson.Kate@epa.gov](mailto:Melanson.Kate@epa.gov)>  
**Cc:** Berry, Tom (Leahy) <[Tom\\_Berry@leahy.senate.gov](mailto:Tom_Berry@leahy.senate.gov)>  
**Subject:** RE: EPRCA Reporting for Farms

Kate,

I know you are trying but I find this all confusing and not overly helpful. With all the disclaimer language in these documents – I could not in good faith tell a farmer what to do with this. It is not clear what are the limits on ammonia and hydrogen sulfide on the worksheet or anywhere else in the document.

The numbers should be clear and upfront so farmers can make the calculations and determine if they need to go further or not. I know there are several other factors but I cannot find how a farmer would determine what other factors

would be involved beyond the calculation for dairy farms. So how could a farmer verify or not any numbers or the need to register or not.

Sorry to say – this material is not overly useful to me and I have an idea what is going on. So farmers who have no idea what you are asking will not be well served by these documents.

Keep trying would be my advice.

Diane

---

**From:** Melanson, Kate [<mailto:Melanson.Kate@epa.gov>]  
**Sent:** Wednesday, January 17, 2018 7:04 AM  
**To:** Bothfeld, Diane <[Diane.Bothfeld@vermont.gov](mailto:Diane.Bothfeld@vermont.gov)>  
**Subject:** EPRCA Reporting for Farms

Good Morning Diane –

The revised factsheet and website came out yesterday afternoon.

The link to site is - <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

There are also worksheets to help farmers calculate if they need to report here - <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms#Resources>

I've attached the Dairy Farm worksheet as well as the updated factsheet.

Please let me know if you have any questions.

Thank you!  
-Kate

Kate Melanson  
U.S. Environmental Protection Agency  
617-918-1491  
[melanson.kate@epa.gov](mailto:melanson.kate@epa.gov)

Message

---

**From:** Subramanian, Hema [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=65E089600E8B4724A2E85997849BD208-SUBRAMANIAN, HEMA]  
**Sent:** 1/16/2018 9:38:48 PM  
**To:** Michael Formica [formicam@nppc.org]  
**Subject:** RE: EPA factsheets on CERCLA-EPCRA reporting for animal waste

I called Jenny Molloy right after I hit forward. ☺

---

Hema Subramanian  
Special Assistant to the Senior Advisor for Agriculture (detail)  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
Phone (202) 564-5041  
[subramanian.hema@epa.gov](mailto:subramanian.hema@epa.gov)

---

**From:** Michael Formica [mailto:formicam@nppc.org]  
**Sent:** Tuesday, January 16, 2018 4:36 PM  
**To:** Subramanian, Hema <Subramanian.Hema@epa.gov>  
**Subject:** RE: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Thanks. And no sooner did I send that email to you than I received an email from the CAFO AFO news distribution list.

Hope all is well!

---

**From:** Subramanian, Hema [mailto:Subramanian.Hema@epa.gov]  
**Sent:** Tuesday, January 16, 2018 4:35 PM  
**To:** Michael Formica <formicam@nppc.org>  
**Subject:** RE: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Actually, this round of proactive outreach is only starting today. (They had some delays for a number of reasons.) I hit send as soon as I got the all clear, not even sure if the other offices have had a chance to forward yet! More coming, including radio PSA.

---

Hema Subramanian  
Special Assistant to the Senior Advisor for Agriculture (detail)  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
Phone (202) 564-5041  
[subramanian.hema@epa.gov](mailto:subramanian.hema@epa.gov)

---

**From:** Michael Formica [mailto:formicam@nppc.org]  
**Sent:** Tuesday, January 16, 2018 4:30 PM  
**To:** Subramanian, Hema <Subramanian.Hema@epa.gov>  
**Subject:** RE: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Just a heads up, btw, this is the only communication I've received from EPA on this. I thought the agency was going to start doing outreach. Perhaps I got dropped off some of their communication lists?

---

**From:** Subramanian, Hema [<mailto:Subramanian.Hema@epa.gov>]

**Sent:** Tuesday, January 16, 2018 4:26 PM

**To:** Subramanian, Hema <[Subramanian.Hema@epa.gov](mailto:Subramanian.Hema@epa.gov)>

**Subject:** FW: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Dear Animal Ag Discussion Group participants:

FYI, please see the announcement below from EPA's Office of Emergency Management regarding a new factsheet for outreach on CERCLA-EPCRA reporting for animal waste.

Thank you,  
---Hema.

---

Hema Subramanian  
Special Assistant to the Senior Advisor for Agriculture (detail)  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and FAQs is to provide an overview and basic information for those who are impacted by this new requirement.

If you have any questions, please contact the Environmental Protection Agency via the information provided below:

- Visit [www.epa.gov/animalwaste](http://www.epa.gov/animalwaste) for guidance and access to the continuous release reporting forms (including [new factsheet](#))
- Email comments or suggestions on guidance materials to: [CERCLA103.guidance@epa.gov](mailto:CERCLA103.guidance@epa.gov)
- Regional Contacts: [www.epa.gov/epcra/cr-erns-regional-contacts](http://www.epa.gov/epcra/cr-erns-regional-contacts)
- Call with questions: 1-800-424-9346

Message

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**From:** Dunkins, Robin [Dunkins.Robin@epa.gov]  
**Sent:** 11/8/2017 7:18:45 PM  
**To:** Schrock, Bill [Schrock.Bill@epa.gov]; Costa, Allison [Costa.Allison@epa.gov]; Sullivan, Tim [Sullivan.Tim@epa.gov]  
**Subject:** FW: PRO-DAIRY e-Alert: NMPF Air Emissions Reporting Recommendations

FYI...

Robin Dunkins, Group Leader  
Natural Resources Group  
OAR/OAQPS/SPPD Mail Code: E143-03  
U.S. Environmental Protection Agency  
Research Triangle Park, NC 27711  
919-541-5335  
dunkins.robins@epa.gov

---

**From:** Mortensen, Ginah  
**Sent:** Wednesday, November 08, 2017 1:52 PM  
**To:** Winnett, Steven <winnett.steven@epa.gov>; Heinemann, Kristina <Heinemann.Kristina@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>; Robertson, Duane <Robertson.Duane@epa.gov>; Rush, Randall <Rush.Randall@epa.gov>; Flournoy, Karen <Flournoy.Karen@epa.gov>; Perrin, Rebecca <Perrin.Rebecca@epa.gov>; LUEHE, DOUGLAS <luehe.douglas@epa.gov>; Peak, Nicholas <Peak.Nicholas@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>; Flahive, Katie <Flahive.Katie@epa.gov>; Larsen, Erika <Larsen.Erika@epa.gov>; Damico, Brian <Damico.Brian@epa.gov>; Dunkins, Robin <Dunkins.Robin@epa.gov>; Swackhammer, J-Troy <Swackhammer.J-Troy@epa.gov>; Galloway, Carol <Galloway.Carol@epa.gov>; Carbone, Chad <Carbone.Chad@epa.gov>; Culver, Edison <culver.edison@epa.gov>; Ferris, Lena <Ferris.Lena@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Sharpe, Kristinn <Sharpe.Kristinn@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Nitsch, Chad <Nitsch.Chad@epa.gov>  
**Subject:** FW: PRO-DAIRY e-Alert: NMPF Air Emissions Reporting Recommendations

Hello Regional Ag Advisors,

Here is the Dairy Alert that Kristina Heinemann, Region 2 Ag Advisor, just mentioned (Thanks, Kristina!).

Thanks!  
Ginah

Ginah Mortensen  
913-551-5028

Attorney Advisor  
Compliance Policy Staff  
Monitoring, Assistance, and Media Programs Division  
Office of Compliance

Director, EPA National Agriculture Center  
1-888-663-2155  
<http://www.epa.gov/agriculture>

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[join-agcenter@lists.epa.gov](mailto:join-agcenter@lists.epa.gov)

---

**From:** Heinemann, Kristina

**Sent:** Wednesday, November 08, 2017 12:37 PM

**To:** Mortensen, Ginah <[mortensen.ginah@epa.gov](mailto:mortensen.ginah@epa.gov)>

**Subject:** FW: PRO-DAIRY e-Alert: NMPF Air Emissions Reporting Recommendations

Just got this – Ginah – are you able to forward to ag advisors ...

**From:** PRO-DAIRY [<mailto:dmconf@cornell.edu>]

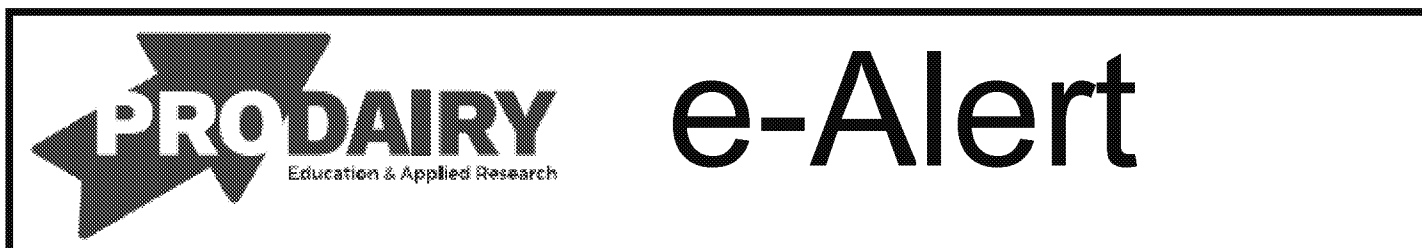
**Sent:** Wednesday, November 08, 2017 12:31 PM

**To:** Heinemann, Kristina <[Heinemann.Kristina@epa.gov](mailto:Heinemann.Kristina@epa.gov)>

**Subject:** PRO-DAIRY e-Alert: NMPF Air Emissions Reporting Recommendations

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To make sure you receive future emails, please add [dmconf@cornell.edu](mailto:dmconf@cornell.edu) to your address book or safe list.



**November 8, 2017**

***National Milk Producers Federation (NMPF) recommends dairies DO NOT report air emissions just yet.***

*By: Karl Czymmek and Curt Gooch*

Late yesterday afternoon, PRO-DAIRY staff spoke with NMPF legal counsel. There is a lot going on to address a range of concerns generated by EPA's emission reporting deadline under CERCLA that was announced on 10-26-17. EPA has filed a motion requesting that the court extend the stay on its mandate to end the 2008 exemption, which will trigger the reporting requirement. Specifically, the court asked for the November 15, 2017 deadline to be extended at least through January 17, 2018 to give EPA a chance to submit its interpretation that EPCRA 304 reporting is not necessary to a rulemaking process and to allow it to refine the CERCLA reporting form. This will also give farms time to understand the reporting requirements. For this reason, NMPF recommends that farms do NOT call the National Response Center (NRC) at least until November 15 and, then only if the court does not extend the deadline. Reportedly, some dairy farms in the US have called and this has prompted unannounced response by police and/or fire departments.

In the meantime, farms can discuss an approach with legal counsel and may consider an estimation tool to use when the time comes. EPA has indicated that a good faith estimate of emissions includes use of a range of methods or tools. EPA has provided, and NMPF also supports, using the emissions estimation factors for ammonia and hydrogen sulfide that are found on the last page of the document at the [Dairy Operation – Continuous Release Report Emergency Planning and Community Right-to-Know Act \(EPCRA\) link](#).

Using the high daily emissions factor from the link above, it would take 1,428 cows to trigger the 100 pounds of ammonia threshold. The advantage of the document is ease of use (one high and low threshold factor for total herd count) and it also includes an emissions factor for hydrogen sulfide. Depending on farm goals and risk assessment, producers may consider estimating ammonia emissions by using the [University of Nebraska worksheet](#) (also provided on the EPA website), or the [PRO-DAIRY dairy specific ammonia worksheet](#) based on the University of Nebraska tool.

When we last visited the hydrogen sulfide emissions topic in 2009, we concluded that it would take several thousand cows to trigger

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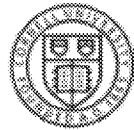
the 100 pound daily emission threshold. As a result, in any situation we can imagine, ammonia emissions should trigger the reporting threshold well before hydrogen sulfide.

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For more information about PRO-DAIRY, go to: <http://prodairy.cals.cornell.edu/>

[Julie Berry, Editor](#) [Tom Overton, Director](#) [Facebook](#)



**Cornell****CALS**  
College of Agriculture and Life Sciences

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This email has been sent to Kristina Heinemann at [heinemann.kristina@epa.gov](mailto:heinemann.kristina@epa.gov). Contact Heather Darrow at [hh96@cornell.edu](mailto:hh96@cornell.edu) if you would like to update your email address on file.

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Message

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**From:** Sullivan, Tim [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8EEE68EB50A74759990AFE170748B9E0-TSULLIVA]  
**Sent:** 10/26/2017 3:09:47 PM  
**To:** Schefski, Melissa [Schefski.Melissa@epa.gov]  
**CC:** Sullivan, Tim [Sullivan.Tim@epa.gov]  
**Subject:** RE: CERCLA and EPCRA Ag Guidance is now available

Thanks – I also got the email directly from Patty.

---

Timothy J. Sullivan  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1595 Wynkoop Street (MC 8MSU)  
Denver, Colorado 80202

Phone: 303.312.6196 | Email: [sullivan.tim@epa.gov](mailto:sullivan.tim@epa.gov)

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---

**From:** Schefski, Melissa  
**Sent:** Thursday, October 26, 2017 8:22 AM  
**To:** Sullivan, Tim <[Sullivan.Tim@epa.gov](mailto:Sullivan.Tim@epa.gov)>  
**Subject:** FW: CERCLA and EPCRA Ag Guidance is now available

Not sure if you're on this listserve.

Attorney-Advisor  
Fuels Enforcement Branch  
Air Enforcement Division  
Mail Code: 8MSU  
1595 Wynkoop Street  
Denver, Colorado 80202  
303-312-6842 (office)  
303-895-5574 (cell)

---

**From:** Molloy, Jennifer [<mailto:molloy.jennifer@epa.gov>]  
**Sent:** Thursday, October 26, 2017 5:31 AM  
**To:** EPA AFO Program Listserve <[afo\\_listserve@lists.epa.gov](mailto:afo_listserve@lists.epa.gov)>  
**Subject:** [afo\_listserve] CERCLA and EPCRA Ag Guidance is now available

Just passing this along from our Office of Emergency Management.



Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Gioffre, Patricia  
**Sent:** Wednesday, October 25, 2017 9:35 PM  
**Subject:** CERCLA and EPCRA Ag Guidance is now available

I am pleased to announce that the CERCLA/ EPCRA ag guidance is live on the EPA website. The guidance is intended to assist farmers in reporting air releases of hazardous substances from animal waste at farms. EPA is making this information available to provide time for farmers to review and prepare for the reporting obligation, which could become effective as early as November 15, 2017.

On December 18, 2008, EPA published a final rule that exempted certain farms from reporting air releases of hazardous substances from animal waste. On April 11, 2017, the DC Circuit Court vacated this final rule. In response to a request from EPA, the DC Circuit Court extended the date on which its ruling would become effective to November 15, 2017. Unless the court further extends this date, farms (including those previously exempted by EPA's rule) that release hazardous substances to the air from animal wastes equal to or greater than the reportable quantities for those hazardous substances within any 24-hour period must comply with applicable statutory reporting requirements.

To view EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations. Interested parties may submit comments or suggestions by November 24, 2017.

Please share this information with your interested stakeholders and regional contacts.

Best wishes!

-----  
Patty Gioffre  
Acting Deputy Division Director  
USEPA (OLEM/OEM/RID)  
1200 Pennsylvania Ave. NW (5104A)  
Washington, DC 20460  
202-564-1972  
202-748-7139 (cell)

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For problems with this list, contact [afo\\_listserve-Owner@lists.epa.gov](mailto:afo_listserve-Owner@lists.epa.gov)

-----

Appointment

---

**From:** Noggle, William [Noggle.William@epa.gov]  
**Sent:** 10/18/2017 5:53:33 PM  
**To:** Swenson, Erik [Swenson.Erik@epa.gov]  
**Subject:** Ag Guidance - Discuss Interagency Comments on both EPCRA and CERCLA  
**Attachments:** Interagency 0.2\_CERCLA 103 Reporting Guidance for Farms\_10.18.2017.docx  
**Location:** Conference Number / Ex. 6  
**Start:** 10/18/2017 6:00:00 PM  
**End:** 10/18/2017 7:00:00 PM  
**Show Time As:** Tentative

To all –

This meeting is to discuss interagency comments on the CERCLA and EPCRA Ag Guidance.

**Dial in:** Conference Number / Ex. 6  
**Code:**

Thanks,  
Bill  
202-566-1306

## Appointment

---

**From:** Gioffre, Patricia [Gioffre.Patricia@epa.gov]  
**Sent:** 10/10/2017 2:24:05 PM  
**To:** Swenson, Erik [Swenson.Erik@epa.gov]  
**Subject:** EPCRA/CERCLA Vacatur  
**Attachments:** EO12866\_EPCRA Ag Reporting\_2050-ZA12\_FinalPolicy\_20171006 OIRA comments.docx; Guidance for Farms DRAFT 10062017 .docx  
**Location:** Room 6528 WJCNorth Conference call- **Conference Number / Ex. 6** (see below for Adobe Connect link)  
**Start:** 10/10/2017 5:30:00 PM  
**End:** 10/10/2017 6:30:00 PM  
**Show Time As:** Tentative

Adobe Connect- <http://epawebconferencing.acms.com/oemrid/>

### Agenda-

- EPCRA 304 Q&A- Over at OMB-received comments this morning (see attached)
- CERCLA 103- website draft text updated (see attached)
- Press inquiry (due at 4 pm)
- ICR issues for continuous release reporting
- FR notice to remove exemption- schedule

## Appointment

---

**From:** Gioffre, Patricia [Gioffre.Patricia@epa.gov]  
**Sent:** 10/11/2017 6:22:04 PM  
**To:** Swenson, Erik [Swenson.Erik@epa.gov]  
**Subject:** EPCRA 304 Q&A-Additional OMB comments  
**Attachments:** EO12866\_EPCRA Ag Reporting\_2050-ZA12\_FinalPolicy\_10.10.2017\_Interagency\_1\_PG.docx; FAQs - Existing Guidance since 1990s - Farms.docx  
**Location:** Conference call Conference Number / Ex. 6  
**Start:** 10/11/2017 6:30:00 PM  
**End:** 10/11/2017 7:30:00 PM  
**Show Time As:** Tentative

Update-Adding some FAQs from our website that relate to routine agricultural operations.

All-I've sent a message to OLEM senior leaders to provide a summary of today's call with DOJ and OMB and to provide them an opportunity to elevate on the schedule. Let's get together this afternoon to discuss additional OMB comments and determine next steps to respond.

I've attached the second set of comments from OMB and added our revisions from the response developed by OGC on the first set of comments.

I then highlighted, in yellow, the additional comments for OGC to address. I think OEM can address the blue highlighted comments. Let's get together this afternoon to discuss and determine next steps.

## Appointment

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**From:** Jennings, Kim [Jennings.Kim@epa.gov]  
**Sent:** 8/29/2017 7:52:36 PM  
**To:** Swenson, Erik [Swenson.Erik@epa.gov]  
**Subject:** CERCLA/EPCRA Reporting Quantity workgroup meeting  
**Attachments:** CERCLA-EPCRA Ag rule court mandate 8-16-17.pdf; Draft CERCLA EPCRA leg language 7-17-17.docx; DRAFT Policy Memo - Routine Agricultural Operations - 06 30 2017\_VP SJ Comments 07 05 17 kjj edits 6-5-17.docx; continuous\_release\_checklist.pdf; part\_2\_instructions\_and\_procedures\_for\_continuous\_release\_reporting.pdf; reporting\_requirements\_for\_continuous\_releases\_of\_hazardous\_substances\_part\_1.pdf  
**Location:** WJC North 6528 call in number: Conference Number / Ex. 6  
**Start:** 8/30/2017 2:30:00 PM  
**End:** 8/30/2017 3:30:00 PM  
**Show Time As:** Tentative

I have made some revisions to tomorrow's agenda.

### Agenda:

- Discuss guidance to farms on estimating releases, reporting releases (including continuous releases), and EPCRA "routine agriculture operations" policy (I have added a copy of the draft policy). Here is a link to the continuous release website and a copy of the continuous release guidance is attached for your review. We should discuss what "addendum" we would add to this to further assist farms. Website: [www.epa.gov/epcra/cercla-and-epcra-continuous-release-reporting#continuous](http://www.epa.gov/epcra/cercla-and-epcra-continuous-release-reporting#continuous) release reporting
- Discuss outreach to Regions, states/SERCs, and farms – we have gotten many questions both internally and externally regarding what EPA is doing about the court's recent action. We need to identify a communication plan for letting folks know what we are doing now and notifying them as we develop guidance.
- Discussion next steps regarding highlighted potential options for adjusting reporting quantities under CERCLA (see highlight options below) including:
  - Additional research needs
  - Pros and cons of options
- Drafting final rule removing 2008 rule from the CFR
- Next steps/meeting

### Information from 8/18 email to group:

#### Court Decision

On August 16, 2017, the DC Circuit Court responded to EPA's motion to stay issuance of the mandate for the vacated CERCLA-EPCRA Air Emission Exemption rule. The court has stayed the rule through November 14, 2017 (See attached decision).

#### Draft legislative language for the CERCLA and EPCRA

Per our discussion at the meeting, attached is the language drafted by OGC which could be used in the current appropriations process providing a temporary exemption for air releases from animal waste. (see attached document).

#### Guidance for Farms

We are working on developing and pulling together information for farms to assist them in reporting under CERCLA. Those materials include: developing a website which assists farm in understanding whether they have a continuous release and how they can report their continuous release. OAR is working on a document which could assist farms in estimating their emission. That document should be completed this month and we will include that on the website. In addition, we are developing a policy memo clarifying our policy related to “routine agriculture operations” and that hazardous substance produced, used, stored, or released from those operations would not be covered under Section 304 of EPCRA.

#### Notes from the Workgroup meeting

The Workgroup was tasked to look at two options:

# Deliberative Process / Ex. 5

## CHECKLIST\* OF INFORMATION REQUIRED IN INITIAL AND FOLLOWUP WRITTEN REPORTS

\*Checklist is to assist you in gathering information for CR-ERNS forms, you are not required to submit the checklist.

### Section I: General Information

#### A. Facility Identification

- ☐ The CR-ERNS number assigned to the facility by the NRC when you made the initial telephone notification.
- ☐ The name of your facility, including the full physical address (street address, city, county, state, zip code), not mailing address, and its longitude and latitude; and
- ☐ The name, position, telephone number, and alternate telephone number of the person in charge of your facility.

#### B. Population Information

- ☐ The population density within a one-mile radius of your facility; and
- ☐ The identity of sensitive populations and ecosystems, including distance and direction from the facility, within a one-mile radius.

NOTE: Lat/Long can be found with GPS units, Google Earth, Landview6.

### Section II: Source Information

#### A. Basis for Asserting that the Release is Continuous and Stable in Quantity and Rate

- ☐ A brief statement describing the basis for stating that the release is continuous and stable in quantity and rate.

#### B. Information on the Source

- ☐ The identity of each source of the release; and
- ☐ The environmental medium affected by the release.

#### C. Identity and Quantity of Each Hazardous Substance or Mixture Released

- ☐ The name/identity of the hazardous substances;
- ☐ The Chemical Abstracts Service Registry Number (CASRN) for the substance;
- ☐ If the release is a mixture, the components of the mixture and their approximate concentrations and quantities by weight;
- ☐ The upper and lower bounds of the normal range of the hazardous substance/mixture release over the previous year;
- ☐ An estimate of the total amount of the hazardous substance(s) released in the previous year;
- ☐ The frequency of the release; and
- ☐ The months during which the release occurs.

### Section III: Hazardous Substance Information

- ☐ The aggregated upper bounds of the normal range of the hazardous substance released from all sources at the facility.

### Signed Statement

- ☐ "I certify that the hazardous substance releases described herein are continuous and stable in quantity and rate under the definitions in 40 CFR 302.8(a) or 355.32 and that all submitted information is accurate and current to the best of my knowledge."

## General Overview of How to Report a Continuous Release

If you have established that your release is continuous and stable in quantity and rate, you may begin reporting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 103(f)(2). The continuous release reporting regulation provides you with two options for reporting continuous releases of CERCLA hazardous substances. You may aggregate multiple concurrent releases of the same hazardous substance from contiguous or adjacent facilities and report them in a single notification, or you may consider each facility separately and submit reports on a per facility basis. Although you may elect either option for notification of continuous releases, whichever options you elect must also be used for reporting statistically significant increases (SSIs) in the release and reporting changes in information previously submitted.

To report a continuous release from your facility, you must comply with the standard reporting requirements under the Rule which require you to make an initial telephone notification, an initial written report, and a one-time, first anniversary follow-up report. In the written reports (i.e., the initial written report and the follow-up report), you must provide specific information that describes your continuous release. This information includes identifying the facility and providing certain ecological and population-density information on the surrounding area, as well as information on the source of the release. You must identify all sources of continuous release from your facility (e.g., smoke stacks, waste piles, valves) whenever those facility-wide releases equal or exceed a reportable quantity (RQ). You must also provide substance-specific information on each hazardous substance released from each identified source (40 CFR 302.8(e)).

In addition to the standard reporting requirements of the initial telephone notification and the written reports, under certain circumstances you must make additional reports. You must report any SSIs in the release, as well as any changes in the release that make the information submitted in the initial written or follow-up reports inaccurate or out-of-date. The specific information required in each of these types of continuous release reports is outlined below.

## Initial Telephone Notification

**When should you notify?** The continuous release reporting regulation requires that an initial telephone notification be made as soon as you have a sufficient basis for establishing that the release is continuous and stable in quantity and rate. You may rely on release data, engineering estimates, knowledge of the plant's operations and release history, professional judgment, or any other method that has a strong technical basis to establish the basis for asserting that the release is continuous and stable in quantity or rate, or you may report the release (to the National Response Center (NRC) for CERCLA hazardous substances or to the State Emergency Response Commission (SERC) and Local Emergency Planning Committee (LEPC) for non-CERCLA Extremely Hazardous Substances (EHSs)) for a period sufficient to establish the continuity and stability of the release.

If a sufficient basis for establishing the release as continuous exists for a CERCLA hazardous substance, a minimum of one telephone call may be made to the NRC, SERC, and LEPC. For non-CERCLA EHSs, only the appropriate SERC and LEPC need be notified. In either case, you may report all continuous releases of hazardous substances at your facility in one telephone report to each authority.

**Who must be notified?** If you are the person in charge, owner or operator, of the facility from which a continuous release of a hazardous substance occurs, you must telephone the following organizations:

1. For CERCLA hazardous substances - NRC (1-800-424-8802)
2. For CERCLA hazardous substances and non-CERCLA EHSs -
  - o The SERC of any state likely to be affected by the release; and
  - o The LEPC of any area likely to be affected by the release.

**Required information.** The person in charge (for CERCLA hazardous substances) or the owner or operator (for non-CERCLA EHSs) is required to provide the information listed below to government authorities in the initial telephone notification.

1. Identify your report as a report of a continuous release under CERCLA Section 103(f)(2). It is very important for tracking purposes that the person at the NRC, SERC, and LEPC to whom you speak understands that you are giving the initial telephone notification of a continuous release (rather than an episodic report).
2. Identify the name and location of the facility responsible for the release and provide the corporate affiliation and address.
3. Identify each hazardous substance released.
4. Provide your name and telephone number and, if different, the name and telephone number of the person in charge of the facility.

If you are reporting a release of a CERCLA hazardous substance, when you make this initial telephone call to the NRC, you will be assigned a CR-ERNS number. This CR-ERNS number will become the identifier for your facility. Your CR-ERNS number will never change; it is the number that identifies you in the CR-ERNS database.

If you are reporting a non-CERCLA EHS to the appropriate SERC or LEPC you will not receive a CR-ERNS number as your SERC and LEPC will use their own methods to track your continuous release.

## Initial Written and Follow-up Reports

**Where and when to submit initial written and follow-up reports?** Within 30 days of your initial telephone call to the NRC, SERC, and LEPC, the initial written report of CERCLA hazardous substances must be submitted to the appropriate government authorities. You must send one copy of the completed initial written report to each of the following organizations:

- The EPA Regional Office for the geographical region in which your facility is located;
- The SERC of any state likely to be affected by the release; and
- The LEPC of any area likely to be affected by the release.

For reports of CERCLA hazardous substances, the one-time, first anniversary follow-up report must be submitted within 30 days of the first anniversary date of the initial written report to the EPA Regional Office. The first anniversary follow-up report must be submitted to the EPA Regional Office only. You are not required to submit the one-time first anniversary follow-up report to the SERC and LEPC.

Reports of releases of non-CERCLA EHSs must be reported only to the SERC and LEPC. No notification of Federal authorities is required.

**What information is required?** The information that you are required to submit for all initial written and follow-up reports can be divided into three primary sections: **general information**; **source information**; and **hazardous substance information**.

- **Section I - General Information** - This section includes identifying information about your facility, as well as information concerning the area surrounding your facility.
- **Section II - Source Information** - This section includes information on each source of the release including: the identity of each source; the basis for stating the release from a source qualifies as continuous and stable in quantity and rate; the environmental medium affected by the release; the names and quantities of the CERCLA hazardous substances or EHSs released from the source; and the normal range and frequency of the release. This information must be provided separately for each source of the continuous release.
- **Section III - Hazardous Substance Information** - This section includes the upper bound of the normal range for each hazardous substance released across all sources at a facility. This number is also known as the SSI trigger. Section II should be completed for each release source before you calculate the upper bound of the normal range of the release for each CERCLA hazardous substance or EHSs across all sources at the facility.



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## PART 2: INSTRUCTIONS AND PROCEDURES FOR CONTINUOUS RELEASE REPORTING

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### 2.0 Introduction

This part of the Guide includes detailed instructions and procedures for complying with the reporting requirements for continuous releases. These instructions are intended to assist you in supplying the information required by the implementing regulations “Reporting Continuous Releases of Hazardous Substances Final Rule” (40 CFR Parts 302.8 and 355.40). The instructions below cover both the standard reporting requirements and the reporting requirements for special circumstances. The standard reporting requirements include the initial telephone notification, the initial written report, and the one-time first anniversary follow-up report. Reporting requirements for special circumstances include reports of SSIs, as well as reports of any changes in the release that make the information submitted in the initial written or follow-up reports inaccurate or out-of-date.

Part 2 of the Guide is organized into six sections. Section 2.1 provides a general overview of how to report continuous releases. Sections 2.2 through 2.5 explain each type of required notification. Within each of these sections are detailed instructions on when and where to submit each required report, as well as instructions on what information to include in the report. Section 2.6 provides a summary of the information that must be provided by reviewing the key elements of the **Suggested Continuous Release Reporting Format** included in **Appendix B** of this Guide. You are strongly encouraged to use this suggested reporting format when completing your written initial and follow-up reports to ensure that you include all of the information required by the Rule.

This part of the Guide also provides other materials to assist you in completing your written reports including **Exhibit 2-1**, the checklist of the information required in the initial written and follow-up reports, which appears on page 19. This checklist is another method that can be used to verify that all required information has been collected and submitted.

### 2.1 General Overview of How to Report a Continuous Release

If you have established that your release is continuous and stable in quantity and rate, you may begin reporting under CERCLA Section 103(f)(2). As discussed in Part 1 of this Guide, the continuous release reporting regulation provides you with two options for reporting continuous releases of CERCLA hazardous substances. You may aggregate multiple concurrent releases of the same hazardous substance from contiguous or adjacent facilities and report them in a single notification, or you may consider each facility separately and submit reports on a per facility basis. Although you may elect either option for notification of continuous releases, whichever option you elect must also be used for reporting statistically significant increases (SSIs) in the release and reporting changes in information previously submitted.

To report a continuous release from your facility, you must comply with the standard reporting requirements under the Rule which require you to make an initial telephone notification, an initial written report, and a one-time, first anniversary follow-up report. In the written reports (i.e., the initial written report and the follow-up report), you must provide specific information that describes your continuous release. This information includes identifying the facility and providing certain ecological and population-density information on the surrounding area, as well as information on the source of the release. You must identify all sources of continuous release from your facility (e.g., smoke stacks, waste piles, valves) whenever those facility-wide releases equal or exceed an RQ. You must also provide substance-specific information on each hazardous substance released from each identified source (40 CFR 302.8(e)).

In addition to the standard reporting requirements of the initial telephone notification and the written reports, under certain circumstances you must make additional reports. You must report any

SSIs in the release, as well as any changes in the release that make the information submitted in the initial written or follow-up reports inaccurate or out-of-date. The specific information required in each of these types of continuous release reports is outlined in the sections below. The instructions for reporting continuous releases contained in this part of the Guide are written for those who elect to report each facility separately and therefore they refer to "facilities" rather than "sites." The instructions for reporting releases from sites are the same as those described for facilities below.

## 2.2 Initial Telephone Notification

### When should you notify?

The continuous release reporting regulation requires that an initial telephone notification be made as soon as you have a sufficient basis for establishing that the release is continuous and stable in quantity and rate. You may rely on release data, engineering estimates, knowledge of the plant's operations and release history, professional judgment, or any other method that has a strong technical basis to establish the basis for asserting that the release is continuous and stable in quantity or rate, or you may report the release (to the NRC for CERCLA hazardous substances or to the SERC and LEPC for non-CERCLA EHSs) for a period sufficient to establish the continuity and stability of the release; (for further information on how to establish a release as continuous and stable in quantity and rate, refer to pages 3 and 4 of this Guide).

If a sufficient basis for establishing the release as continuous exists for a CERCLA hazardous substance, a minimum of one telephone call may be made to the NRC, SERC, and LEPC. For non-CERCLA EHSs, only the appropriate SERC and LEPC need be notified. In either case, you may report all continuous releases of hazardous substances at your facility in one telephone report to each authority.

### Who must be notified?

If you are the person in charge, owner or operator, of the facility from which a continuous release of a hazardous substance occurs, you must telephone the following organizations:

- For CERCLA hazardous substances:
  - National Response Center (NRC)  
Toll-free telephone number:  
1-800-424-8802;  
Washington, DC area: 1-202-267-2675;
- For CERCLA hazardous substances and non-CERCLA EHSs:
  - The State Emergency Response Commission (SERC) of any state likely to be affected by the release; and
  - The Local Emergency Planning Committee (LEPC) of any area likely to be affected by the release.

### Required information

The person in charge (for CERCLA hazardous substances) or the owner or operator (for non-CERCLA EHSs) is required to provide the information listed below to government authorities in the initial telephone notification.

1. Identify your report as a report of a continuous release under CERCLA Section 103(f)(2). It is very important for tracking purposes that the person at the NRC, SERC, and LEPC to whom you speak understands that you are giving the initial telephone notification of a continuous release (rather than an episodic report).
2. Identify the name and location of the facility responsible for the release and provide the corporate affiliation and address.
3. Identify each hazardous substance released.
4. Provide your name and telephone number and, if different, the name and telephone number of the person in charge of the facility.

If you are reporting a release of a CERCLA hazardous substance, when you make this initial telephone call to the NRC, you will be assigned a CR-ERNS number. This CR-ERNS number will become the identifier for your facility. Your CR-ERNS number will never change; it is the number that identifies you in the CR-ERNS database.

If you are reporting a non-CERCLA EHS to the appropriate SERC or LEPC you will not receive a CERNS number as your SERC and LEPC will use their own methods to track your continuous release.

### 2.3 Initial Written and Follow-Up Reports

#### Where and when to submit initial written and follow-up reports?

Within 30 days of your initial telephone call to the NRC, SERC, and LEPC, the initial written report of CERCLA hazardous substances must be submitted to the appropriate government authorities. You must send one copy of the completed initial written report containing the information described in this Section to each of the following organizations:

The EPA Regional Office for the geographical region in which your facility is located;

The SERC of any state likely to be affected by the release; and

The LEPC of any area likely to be affected by the release.

For reports of CERCLA hazardous substances, the one-time, first anniversary follow-up report must be submitted within 30 days of the first anniversary date of the initial written report to the EPA Regional Office. The first anniversary follow-up report must be submitted to the EPA Regional Office only. You are not required to submit the one-time first anniversary follow-up report to the SERC and LEPC.

Reports of releases of non-CERCLA EHSs must be reported only to the SERC and LEPC. No notification of Federal authorities is required.

#### What information is required?

The information that you are required to submit for all initial written and follow-up reports can be divided into three primary sections: general information; source information; and hazardous substance information. These sections are described briefly below and the specific information to be

included in each of these sections is described more fully in the following pages.

- Section I - General Information. This section includes identifying information about your facility, as well as information concerning the area surrounding your facility.
- Section II - Source Information. This section includes information on each source of the release including: the identity of each source; the basis for stating that the release from a source qualifies as continuous and stable in quantity and rate; the environmental medium affected by the release; the names and quantities of the CERCLA hazardous substances or EHSs released from the source; and the normal range and frequency of the release. This information must be provided separately for each source of the continuous release.
- Section III - Hazardous Substance Information. This section includes the upper bound of the normal range for each hazardous substance released across all sources at a facility. This number is also known as the SSI trigger. Section II should be completed for each release source before you calculate the upper bound of the normal range of the release for each CERCLA hazardous substance or EHSs across all sources at the facility.

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#### Section I: General Information

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The information required in Section I of the initial written report and follow-up reports includes general information identifying your facility, as well as information regarding the area in which your facility is located. This general information is important because it provides a better understanding of the potential risks resulting from exposure from the facility's release. A signed statement asserting that the continuous release is continuous and stable in quantity and rate, and that the information supplied is accurate and current to the best of your knowledge, is also required in Section I.

**EXHIBIT 2-1**  
**CHECKLIST OF INFORMATION REQUIRED IN INITIAL AND FOLLOW-UP WRITTEN REPORTS**

In addition to the information required on the following pages, Section I must clearly identify the type of written report that you are submitting (i.e., an initial written report, a first anniversary follow-up report, or a written report of the change in source or composition of a previously reported release). You must also include information on the initial notification of the release, such as the date of the release and the date of the initial call. For CERCLA hazardous substances, the CR-ERNS number assigned to you by the NRC will also be required.

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**Section I: General Information**  
**Part A: Facility Information**

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In Part A, provide the following information:

1. The complete name of your facility (and company identifier where appropriate). If multiple facilities are included in your written report, provide the plant site name with the name of the facility.
2. The full address of your facility, including the street address or highway marker, city, county, state, and zip code. A post office box number should not be used as the facility address. The address provided should be the location of the facility where the hazardous substance release occurs.
3. The location of your facility by its latitude and longitude in units of degrees, minutes, and seconds. **Exhibit 2-2** includes helpful hints on how to obtain the latitude and longitude coordinates of your facility.
4. The nine digit number assigned by Dun and Bradstreet (D&B) to your facility. This number can be obtained via telephone by an officer of your company from the national office of Dun and Bradstreet (at 1-800-234-3867). If your facility has not been assigned a D&B number, please specify that the information is not applicable.
5. For reports of CERCLA hazardous substances, the CR-ERNS number assigned by the NRC when you made the initial telephone report. Be certain to include the CR-ERNS number on each page of your report.

6. The name, telephone number (including area code), and an alternate telephone number for the person in charge of your facility.

**EXHIBIT 2-2**  
**SOURCES OF INFORMATION FOR**  
**IDENTIFYING THE LOCATION OF YOUR**  
**FACILITY**

Sources of data on latitude and longitude coordinates of your facility include EPA permits (e.g., NPDES permits), county property records, facility blueprints, and site plans.

In addition, information on the latitude and longitude of your facility may be obtained from a United States Geological Survey (USGS) topographical map. These maps are available in both the 7.5 minute and 15 minute series. These maps may be obtained from the USGS distribution center at your local public library. If you would like to order a map from USGS, contact:

U.S. Geological Survey  
Branch of Distribution  
Box 25286 Federal Center  
Denver, CO 80225

If you are not certain on which map your site is located, consult the index of topographic maps for your state, which may be obtained from USGS free of charge. USGS maps are also available at commercial dealers such as surveyors or outdoor recreation equipment dealers.

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**Section I: General Information**  
**Part B. Population Information**

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In Part B, provide the following information:

1. Choose the range listed below that most accurately describes the population density within a one-mile radius of your facility:

0-50 person(s)  
51-100 persons  
101-500 persons  
501-1000 persons  
more than 1000 persons.

2. Identify and describe the location of any sensitive populations or ecosystems (see **Exhibit 2-3** for definitions and examples) within a one-mile radius of your facility. If possible, describe the location of the populations or ecosystems in terms of distance and direction from your facility (e.g., located ¼ mile northwest of the facility). Exact addresses are not required.

**EXHIBIT 2-3**  
**DEFINITIONS**

**Sensitive populations** are populations likely to be more susceptible than average individuals to the effects of exposure to a hazardous substance. Examples of sensitive populations are elementary school children, retirement communities, or hospitals.

**Sensitive ecosystems** are environments likely to be more susceptible than average environments to the effects of exposure to a hazardous substance, or ecosystems that have been designated for special protection by Federal or state governments. Examples of sensitive ecosystems include wetlands, wildlife refuges, tidal basins, or endangered species habitats.

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**Section II: Source Information**

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**General overview**

When completing your written reports, you must take into consideration all sources of the release from your facility. For example, if the aggregate amount of a particular hazardous substance released within 24 hours from your facility equals or exceeds an RQ, then each source of the particular release must be identified, even if some release amounts from individual sources do not equal or exceed the RQ. The purpose of requiring information on the source(s) of the release is to provide EPA with sufficient information to evaluate the risk associated with the continuous release. Providing this information accurately in the initial written and first anniversary follow-up report will minimize future requests by EPA for additional information or clarification.

In this section of the written report, you should identify and describe separately each continuous release source. If the continuous release of the same hazardous substance comes from two or more sources (e.g., two stacks), then information should be reported separately for each of the sources. For example, if a stack is one of several sources of a hazardous substance release at your facility, you must provide information on that stack including: the stack height; the identity of the hazardous substance(s) being released from the stack; the quantity released; and the frequency of the release from the stack. If you have a release of a particular hazardous substance from three stacks, you should report each stack separately and provide the required information specified for each stack.

Although the continuous release reporting regulation allows multiple concurrent releases of the same CERCLA hazardous substance to be considered as if they were one continuous release, aggregate reporting of such releases from different sources complicates risk analyses. Area sources are most readily aggregated for purposes of continuous release reporting and risk evaluation when the frequency of the release from each source is the same. Similarly, aggregated stack releases are most readily evaluated if the frequency of the release from each stack is the same and the stack configurations (e.g., stack height, diameter, throughput) are the same. If you elect to aggregate releases across facilities, be certain to identify information about each source of the release

from all of your facilities. Also, note that if you aggregate your releases, EPA may request clarifying information about the releases from each of the individual sources.

### Identification of sources

In Section II, you must identify (i.e., name) and describe each continuous release source. There are several ways to name release sources. It is important to: (1) provide a name that clearly identifies the source (e.g., centrifugal processor A, rather than Unit A); and (2) avoid giving two or more sources the same name. It is also important to remember when naming your sources that EPA, at any time, may contact you with questions regarding releases from one of your named sources. It would be prudent, therefore, to name the sources at your facility in a manner that will be easy for you and other employees to identify them. For example, if your plant has four stacks, two wastepiles, and twenty-four valves, you may name the sources as follows: Stack #1; Stack #2; Stack #3; Stack #4; Wastepile #1; Wastepile #2; and Valves in Building #2. Note that the "Valves in Building #2" are aggregated in this example and reported as a single source.

### Required information

Section II, Source Information, contains three Parts: Part A, Part B, and Part C. You must provide the information required in each of these Parts for each continuous release source. Be sure to place the name of the source on all pages associated with that specific source. A summary of the type of information required in each Part is provided below.

Part A – Requests information on the basis for asserting that the release from each identified source is continuous and stable in quantity and rate.

Part B – Requires specific information on the environmental medium affected by the hazardous substance release from each identified source.

Part C – Requires information on the hazardous substance(s) and mixture(s) released from the identified source, such as the upper bound of the normal range of the hazardous substance.

The information required in Parts A, B, and C is described more fully below and is used to assist EPA

and other government authorities in evaluating the risks associated with the continuous release. It is important to remember when completing your format to include for each source all of the information required in each part of Section II.

There is one exception to this rule. If the release from any individual source will affect more than one environmental medium (e.g., a wastepile releasing to air and ground water) it must be modeled separately. Therefore, any source that affects two different media should be treated as two separate sources for purposes of reporting. This is desirable because EPA must analyze each release pathway separately to properly evaluate the risks posed by the continuous release. In addition, because the hazardous substance releases to each medium may differ in frequency and quantity, it is useful to distinguish the releases for purposes of risk evaluation.

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### Section II: Source Information

#### **Part A: Basis for Asserting the Release is Continuous and Stable in Quantity and Rate**

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In Part A of Section II, you must first identify the source of the release (include the name of the source in all subsequent parts), then briefly describe the basis for stating that the release is continuous and stable in quantity and rate. Your description of the basis for stating that the hazardous substance release is continuous and stable in quantity and rate should include whether the release is continuous without interruption, or is a routine, anticipated, intermittent release. It should also include information on when the release is expected to occur (i.e., evidence of predictability of the release). One example of a release that may be predictable and regular is fugitive emissions from valves that occur at different rates over the course of a production cycle as the pressure inside the system changes. Although the rate of such fugitive emissions may not be strictly uniform, it may be predictable in the sense that the rate and amount of the release vary in a similar manner each time the process is operated or decompression occurs.

Your description should also identify the activity that results in the release (e.g., batch process, operating procedure, loading/unloading, maintenance activity, filling of storage tanks). If the release occurs because of a malfunction, this should be explained

fully. Note that only certain releases due to malfunctions can qualify as a continuous release. Please refer to the discussion in the preamble of the continuous release Final Rule at 55 FR 30171 or the discussion on page 4 of this Guide to determine whether a malfunction can qualify as a continuous release.

Finally, your description should include information on how you established the pattern of the release and calculated release estimates (e.g., engineering estimates, your best professional judgment, past release data).

In sum, when identifying your sources, refer to the directions above on how to name sources. For each source identified, provide the following information.

1. Indicate whether the release is continuous without interruption or abatement or routine, anticipated, and intermittent.
2. Identify the activity or activities that cause the release from the source.
3. If the release results from a malfunction, describe the malfunction and explain why the release should be considered continuous and stable in quantity and rate.
4. Identify how you established the pattern of the release and calculated release estimates.

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## Section II: Source Information

### Part B. Specific Information on the Source

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In Part B of Section II of your written report, you must identify the environmental medium (i.e., air, surface water, soil, or ground water) affected by the hazardous substance release from each source identified in Section II, Part A. In addition, you must provide specific information on the source and its affected environment. It is important to remember that if you have a release from a single source that affects two different media (e.g., gypsum stack releasing radon to air and radionuclides to ground water), you should treat the release to each medium as separate source for purposes of reporting. Another important point to remember when completing all sections of the written report is to include the appropriate units, such as kilograms, meters, or curies.

For each source identified in Part B, provide the following information.

#### Environmental medium

Identify the environmental medium (i.e., air, surface water, soil, or ground water) that is affected by the release from the identified source.

##### 1. Air

If the medium affected is air, provide the following information:

- (a) Indicate whether the source is a stack or ground-based area source.
- (b) If the source is a stack, provide the stack height in feet or meters. The stack height is the distance from the ground to the top of the stack.
- (c) If the source is an area source (e.g., a waste pile, surface impoundment, landfill, valve, pump seal, or storage tank vent), provide an estimate of the surface area or area of the release source including the appropriate unit such as square feet, square meters, or acres.

##### 2. Surface Water

If the medium affected is surface water, provide the following information:

- (a) If the release affects any surface water body, give the name of the water body.
- (b) If the release affects a stream, give the "stream order" or the average flow rate (in cubic feet per second). This information can be obtained from your state water resource division of USGS. If you cannot locate this information, use the chart in **Exhibit 2-4** to estimate the flow rate according to the velocity of the stream. If the velocity of the stream fluctuates during the year, use the average velocity when calculating average flow rate.



**EXHIBIT 2-4  
ESTIMATED AVERAGE STREAM  
FLOW RATES**

<u>Stream Order</u>	<u>Mean Flow (CFS)</u>	<u>Mean Velocity (feet/sec)</u>
1	0.65	1.0
2	3.10	1.3
3	15.00	1.5
4	71.00	1.8
5	340.00	2.3
6	1,600.00	2.7
7	7,600.00	3.3
8	56,000.00	3.9
9	171,000.00	5.6
10	810,000.00	5.9

CFS = Cubic Feet/Second

- (c) If the release affects a lake, or other large surface water body (e.g., a bay) give the surface area of the lake (in acres) and the average depth (in feet or meters). **Exhibit 2-5** includes sources of information on how to determine the average depth of a lake.

**EXHIBIT 2-5  
SOURCES OF INFORMATION FOR  
ESTIMATING AVERAGE LAKE DEPTH**

If the lake is large enough to be navigable, your local Coast Guard office will have a navigation chart that will provide the average depth of the lake. For smaller lakes, you may estimate the average depth of the lake by relying on your knowledge of the use of the lake and the surrounding area, and your best professional judgment.

3. Soil or Ground Water

If the medium affected is soil or ground water, provide the following information:

- (a) If the release is on or under ground, indicate the distance to the closest water well within a two-mile radius of the site.

Information regarding the location of public water supply wells may be available through the county office that issues permits for wells.

**Optional information**

The following information is not required in the Continuous Release Rule; however, such information will assist EPA in evaluating the risks associated with a continuous release. If the information below is not provided, conservative values will be used to evaluate the risks associated with the continuous release.

1. If the source is a stack release to air, provide the: (a) inside diameter of the stack; (b) gas exit velocity; and (c) gas temperature.
2. If the release affects surface water, provide the average velocity of the surface water.

**Section II: Source Information**

**Part C. Identity and Quantity of Each Hazardous Substance or Mixture Released**

For each source, you must report information about the identity and quantity of the hazardous substances released from the source. In particular, you must identify the normal range of each release and the total annual quantity released during the previous year from each source. The regulatory definition of the "normal range" of a continuous release is provided in **Exhibit 2-6**.

**EXHIBIT 2-6  
NORMAL RANGE**

The normal range of a continuous release includes all releases of a hazardous substance (in pounds or kilograms) reported or occurring during any 24-hour period under normal operating conditions during the previous year. Only releases that are both continuous and stable in quantity and rate may be included in the normal range.

## EXHIBIT 2-7: EXAMPLES OF REPORTING SINGLE HAZARDOUS SUBSTANCES

In this example, your facility has a release which may qualify for reduced reporting as a continuous release. The hazardous substances released from the identified source (Stack A) are nitrogen dioxide (10102440) and nitric oxide (10102439).

The volume of nitrogen dioxide (NO<sub>2</sub>) released in a 24-hour period is between 0 and 120 lbs. During the previous year, 960 lbs of NO<sub>2</sub> was released. The release occurs once per week in February and June for a total of 8 days per year. The amount of nitric oxide (NO) released is between 1 and 115 lbs. The release of NO occurs approximately 120 days each year. A total amount released last year was 13,800 lbs.

For these releases from the specific source, you must provide the information outlined below.

Name of Months of Hazardous Substance	CASRN#	Normal Range (specify lbs. or kg)		Total Annual  Amount Released (specify lbs. or kg)	Number of Days Release	
		Upper Bound	Lower Bound		Occurs (Per year)	the Release
Nitrogen dioxide (NO <sub>2</sub> )	10102440	120 lbs	0 lbs	960 lbs.	8	February; June
Nitric oxide (NO)	10102439	115 lbs	1 lb	13,800 lbs.	120	All 12 months

You are not necessarily required to monitor releases to determine the normal range of the release. You may establish the normal range by using engineering estimates of releases under various operating conditions, knowledge of the operating history of the facility, experience with operating processes, professional judgment, or any other method that has a sound technical basis. EPA will use the upper bound of the normal range to estimate the risks to human health and the environment posed by the hazardous substance release.

To provide the required information regarding the quantity of the hazardous substance released from each identified source, you should begin by determining whether the release is a single hazardous substance or a mixture of hazardous substances. If the release is of one or more single hazardous substances, follow the directions provided below in **Example A**. If the release is a mixture of hazardous substances, you have two options. For a mixture you may complete Part C either: 1) by reporting each hazardous substance as if it were a discrete and separate release (as in **Example A**); or 2) by reporting the release as a mixture and identifying the hazardous substance components of the mixture along with information on

the weighted contribution of each component in the mixture (as in **Example B**).

### Example A: Single hazardous substances

For each source, follow the directions below to report each hazardous substance released from the source that is a single hazardous substance or a component of a mixture that you wish to report separately. **Exhibit 2-7** provides an example of how to report releases of single hazardous substances.

1. Identify the hazardous substance released by name and by Chemical Abstracts Service Registry Number (CASRN). The CASRN for a hazardous substance can be located in any material safety data sheet or in most chemical supplier company catalogues.
2. Provide the upper and lower bounds of the normal range of the release from the identified source (i.e., quantity in pounds, kilograms, or curies) during the previous year.
3. Estimate the total annual amount (in pounds, kilograms, or curies) of the hazardous substance

released from the identified source during the previous year.

**TABLE 2-8: EXAMPLE OF REPORTING A MIXTURE**

In this example, if your facility wants to report the release of a mixture of hazardous substances, you must list each component of the mixture by hazardous substance and include its percentage by weight. For example, for the release of mixture Z, you must provide the following information about its components, ethylene oxide, acrolein, and 2,3,5-tri-chlorophenol:

Name of Mixture	Name of Hazardous Substance Components	Weight CASRN#	Normal Range of Components		Normal Range of Mixture Occurs		Number of Days Release Released in (Per year)	Total Quantity of Mixture Of the Previous Year	Months Release
			Upper Percentage	Lower Bound	Upper Bound	Lower Bound			
Z	(components listed below)					100 lbs 0 lbs	365	79,500 lbs	All 12 Months
Z	Ethylene oxide	75218	10%	10 lbs	0 lbs				
Z	Acrolein	107028	15%	15 lbs	0 lbs				
Z	2,3,5-tri-chlorophenol	933788	20%	20 lbs	0 lbs				

- Specify the frequency of the release by indicating the number of days the release occurs per year from the identified source. Stating “continuous” is not sufficient, as one source may be continuously operating 365 days a year, while another source may be continuously operating on weekdays, 261 days a year.
- Indicate the actual months the release occurs.

#### Example B: Mixture

For each source, follow the directions below to report each mixture released from the source. **Exhibit 2-8** provides an example on how to report a mixture.

- Identify the mixture by name (e.g., Blue Pigment #25).
- Identify each hazardous substance component of the mixture by name and CASRN.
- Estimate the percentage by weight of each hazardous substance component of the mixture.
- Provide the upper and lower bounds (i.e., quantity in pounds, kilograms, or curies) of the normal range of each hazardous substance

component of the mixture that was released from this source. To calculate the upper bound of the normal range of each hazardous substance component, multiply the weight percentage of each component by the upper bound quantity of the mixture.

- Provide the upper and lower bounds (i.e., quantity in pounds, kilograms, or curies) of the normal range of the mixture that was released from the identified source during the previous year.
- Specify the frequency of the release by indicating the number of days the release occurs per year from the identified source. Stating “continuous” is not sufficient, as one source may be continuously operating 365 days a year, while another source may be continuously operating on weekdays, 261 days a year.
- Estimate the total annual quantity (in pounds, kilograms, or curies) of the mixture that was released from the identified source during the previous year.
- Indicate the actual months the release occurs.

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**Section III: Hazardous Substance Information**

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After you provide the required information for all sources of continuous releases from your facility, you must aggregate information of a hazardous substance release from all sources to determine the SSI trigger (upper bound of the normal range) for each hazardous substance released at your facility.

The SSI trigger of a particular hazardous substance is calculated by aggregating the upper bounds of the hazardous substance released across all sources at a facility.

If you are aggregating CERCLA hazardous substance releases from separate, contiguous, or adjacent facilities and reporting them in a single report, aggregate the upper bound of the normal range of the hazardous substance released from all sources at the site to determine the SSI trigger. If you aggregate your releases across facilities, the SSI trigger must also be site-specific, not facility-specific. Aggregating releases across facilities at the same site may reduce your reporting burden; however, EPA will evaluate the risks associated with the releases as if the releases were from one facility.

To calculate the SSI trigger for each hazardous substance you should:

1. List each specific source name and enter the upper bound of the normal range of the release from that source. If the identified hazardous substance is a component of a mixture, enter the upper bound of the normal range for that component of the mixture (as determined in Section II, Part C).
2. Aggregate the upper bound quantities from each source of the release. Report these totals as the SSI trigger for the hazardous substance. The example that is provided in **Exhibit 2-9** illustrates the calculation of the SSI trigger for a release of ammonia.

The above method for calculating the SSI trigger of a hazardous substance assumes that all releases of

**EXHIBIT 2-9: CALCULATION OF THE  
SSI TRIGGER FOR A  
HAZARDOUS SUBSTANCE**

<u>Hazardous Substance</u>	<u>Source</u>	<u>Upper Bound</u>
Ammonia	Tank Vents in Building #1	120 lbs.
	Valves in Building #5	115 lbs.
Upper Bound for Ammonia		<u>235 lbs.*</u>

\* For purposes of this example, it is assumed that the only sources of the ammonia release at the facility are the Tank Vents in Building #1 and the Valves in Building #5.

the same hazardous substance occur simultaneously (i.e., over the same 24-hour period). To the extent that the frequency of the release differs, you may adjust the SSI trigger so that it more accurately reflects the frequency and quantity of the hazardous substance released from all sources over a 24-hour period. The SSI trigger in the final analysis must reflect the upper bound of the normal range of the release, taking into consideration all sources of the release at the facility. The normal range of the release includes all continuous releases previously reported or occurring over a 24-hour period during the previous year.

**Signed statement**

After providing the information required in Sections I through III, as described above, the person in charge of the facility must sign a statement asserting that the information provided is accurate and current to the best of his or her knowledge. This statement must be similar to the following:

"I certify that the hazardous substance releases described herein are continuous and stable in quantity and rate under the definitions in 40 CFR 302.8(a) or 355.4(a)(2)(iii) and that all submitted information is accurate and current to the best of my knowledge."

In addition, the person in charge of the facility must print clearly his/her name and position and date the certification statement.

## 2.4 Notifications of Statistically Significant Increases

### When do you submit SSI reports?

An SSI is an episodic release that must be reported whenever the hazardous substance release exceeds the continuous release SSI trigger (i.e., the upper bound of the normal range of the release) within a 24-hour period. The determination of whether a release is an SSI should be based upon calculations or estimation procedures that identify the release as exceeding the upper bound of the reported normal range of the continuous release. The person in charge of a facility must report an SSI of a CERCLA hazardous substance to the NRC, SERC, and LEPC, and the owner or operator of a facility must report an SSI of a non-CERCLA EHS to the SERC and LEPC, as soon as the facility is aware that the release has occurred.

### Who must be notified?

If you are the person in charge, or owner or operator, of the facility from which an SSI in a continuous release occurs, you must telephone the following government organizations:

- For CERCLA hazardous substances:
  - NRC  
Toll-free telephone number:  
1-800-424-8802;  
Washington, DC area: 1-202-267-2675;
- For CERCLA hazardous substances and non-CERCLA EHSs:
  - The SERC of any state likely to be affected by the release; and
  - The LEPC of any area likely to be affected by the release.

In addition to these notifications, under the requirements of SARA Title III Section 304, you must submit a written follow-up notice to the SERC and LEPC. For information on the addresses and telephone

numbers of SERCs and LEPCs, contact the RCRA/Superfund/EPCRA Hotline toll free at 1-800-424-9346. (See **Exhibit 1-7** on page 14)

### What type of information is required in SSI reports?

In the telephone notification, the release should be identified as an SSI. For reports of releases of CERCLA hazardous substances, the person in charge of the facility should also provide the original CR-ERNS number assigned by the NRC. This will ensure that the SSI report is recorded correctly and evaluated properly.

The person in charge will be asked to provide all of the information required in an episodic release report under CERCLA Section 103(a). An SSI is a type of episodic release. It represents a release of a hazardous substance above an RQ that has never been evaluated or considered.

### What are that requirements for modifying the SSI trigger?

In the event that a particular continuous release at a facility frequently exceeds the upper bound of the normal range, the person in charge may want to modify the previously established upper bound(s) of the relevant hazardous substances as an alternative to reporting successive SSIs.

To modify the SSI trigger, you must report at least one release as an SSI (to facilitate immediate evaluation). During such a report, you may also notify the government authorities of the new upper bound of the release. For reports of CERCLA hazardous substances, within 30 days of the telephone notification, you must submit a written notification to the EPA Regional Office in your geographical area, describing the new normal range, the reason for the change, and the basis for certifying that the release is continuous and stable at the higher amount. A modification of the SSI trigger is a type of change in source or composition and therefore is reported as a new release under the "old" CR-ERNS number. Although it is not required, it is also advised that you notify the appropriate SERC and LEPC.

## 2.5 Reports of Changed Releases

### Where and when do you submit reports of changed releases?

The person in charge of the facility must notify the appropriate government authorities if there are any of the following changes in a continuous release.

#### Change in Source or Composition

If there is a change in the source(s) or composition of a continuous release, the release is considered a "new" release. A change in the source(s) or composition of a release may be caused by factors such as equipment modifications or process changes. The new release may pose a hazard that warrants timely evaluation and, therefore, to report this new release under CERCLA Section 103(f)(2), you must establish the new release as continuous and stable in quantity and rate (i.e., for CERCLA hazardous substances, call the NRC, SERC, and LEPC; for non-CERCLA EHSs, call the SERC or LEPC; and in both cases, submit a new initial written report and follow-up report).

For CERCLA hazardous substances, when you make the initial telephone call to the NRC, provide your original CR-ERNS number. When submitting your new written initial report to the EPA Regional Office, SERC, and LEPC (for a report of a release of a CERCLA hazardous substance), or only the SERC and LEPC (for a report of a release of a non-CERCLA EHS), be certain to specify whether you are adding a new source(s), deleting a source(s), or modifying the list of hazardous substances previously reported. In addition, if your change report includes information that has already been submitted, please clearly differentiate between the new or changed information and the previously reported information by either placing a check mark in the left hand margin, highlighting the information, or using any other means to identify the changed or new information. It is important to clearly identify new or changed information.

Please note that each time you submit a written report of a change in the source or composition of a release, you must recalculate the upper bound of the normal range for each affected hazardous substance.

For example, if you add a source from which two single hazardous substances (i.e., HS #1 and HS #2) are released and you have previously reported releases of these same substances from other sources, you must recalculate, in Section III of the reporting format, the upper bound of the normal range for both HS #1 and HS #2. To obtain the new upper bound for HS #1, you must add the upper bound of HS #1 released from the new source to the upper bound of HS #1 released from all other sources at your facility. The new upper bound for HS #2 should be calculated in a similar manner.

#### Other Changes

If there is a change in the information submitted in the initial written or follow-up reports of a release of a CERCLA hazardous substance (other than a change in the source or composition of the release) the person in charge must notify the EPA Regional Office in writing within 30 days of determining that the information submitted previously is no longer valid. One example of a change in the information submitted previously, other than a change in the source or composition of the release, is a change in ownership in the facility.

All notifications of changes in releases of CERCLA hazardous substances must include the CR-ERNS number assigned by the NRC in your initial telephone notification that identifies the facility. You must also include a signed statement (see page 27 of this Guide) certifying that the release is continuous and stable in quantity and rate, and that all the reported information on the release is accurate and current.

Although not required, it is advised that the appropriate SERC and LEPC be notified of any changes in other information regarding release of either CERCLA hazardous substances or non-CERCLA EHSs.

## 2.6 Summary

Prior to sending your report to the appropriate government authorities, ensure that you have:

1. Included the original CR-ERNS number identifying your facility on each page of the report, if applicable;
2. Completed all information requested in Sections I, II, and III;
3. Included supplementary pages, if needed. (It would be helpful to number the additional pages of information submitted sequentially in accordance with the sections and subsections of the reporting format (e.g., Section II, Part A, page 2).)
4. Indicated the appropriate units (e.g., meters, kilograms, or curies), in all sections;
5. Provided a unique name for each source identified and have indicated the source name on Parts A, B, and C of Section II;
6. Included the certification statement and signed the report; and
7. Made sufficient copies of the report for your files.

## **APPENDIX A**

### **ACRONYMS**



## ACRONYMS

CASRN	--	Chemical Abstracts Service Registry Number
CERCLA	--	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CFR	--	Code of Federal Regulations
CR-ERNS	--	Continuous Release Emergency Response Notification System
EHS	--	Extremely Hazardous Substance
EPA	--	Environmental Protection Agency
EPCRA	--	Emergency Planning and Community Right-to-Know Act
FR	--	Federal Register
LEPC	--	Local Emergency Planning Committee
NRC	--	National Response Center
RQ	--	Reportable Quantity
SARA	--	Superfund Amendments and Reauthorization Act of 1986
SERC	--	State Emergency Response Commission
SSI	--	Statistically Significant Increase
TERC	--	Tribal Emergency Response Commission
TRI	--	Toxic Release Inventory
VNTSC	--	John A. Volpe National Transportation Center

## **APPENDIX B**

### **SUGGESTED CONTINUOUS RELEASE REPORTING FORMAT (BLANK)**

## **APPENDIX C**

### **SUGGESTED CR-ERNS REPORTING FORMAT -- ADDENDUM TO TRI FORM R (BLANK)**

## **APPENDIX D**

### **COMPLETED SUGGESTED CONTINUOUS RELEASE REPORTING FORMAT**

**APPENDIX E**

**COMPLETED SUGGESTED CR-ERNS REPORTING FORMAT --  
ADDENDUM TO TRI FORM R**

United States  
Environmental Protection Agency

Office of Emergency and  
Remedial Response  
Washington, DC 20460

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Superfund

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# **EPA Reporting Requirements for Continuous Releases of Hazardous Substances**

## **A Guide for Facilities on Compliance**

The policies and procedures set forth here are intended as guidance to facilities. They may not be relied on to create a substantive or procedural right enforceable by any other person. The Government may take action that is at variance with the policies and procedures in this manual. This 1997 revised edition of "Assessing Reports of Continuous Releases of Hazardous Substances – A Guide for Facilities on Compliance" replaces and updates the October 1990 edition.

## TABLE OF CONTENTS

	<u>Page</u>
<b>BACKGROUND</b> .....	iv
<b>PART 1: REPORTING REQUIREMENTS FOR CONTINUOUS RELEASES OF HAZARDOUS SUBSTANCES</b> .....	1
1.0 Introduction .....	1
1.1 CERCLA and EPCRA Release Reporting Requirements .....	1
1.2 Continuous Releases .....	3
1.3 Reporting Continuous Releases .....	6
1.4 Recordkeeping Requirements .....	9
1.5 EPA's Role in the Continuous Release Reporting Process .....	12
1.6 Additional Questions .....	13
1.7 Where to Submit Written Reports .....	13
1.8 Sources for Further Information .....	15
<b>PART 2: INSTRUCTIONS AND PROCEDURES FOR CONTINUOUS RELEASE REPORTING</b> .....	16
2.0 Introduction .....	16
2.1 General Overview of How to Report a Continuous Release .....	16
2.2 Initial Telephone Notification .....	17
2.3 Initial Written Report and Follow-up Reports .....	18
2.4 Notifications of Statistically Significant Increases .....	28
2.5 Reports of Changed Releases .....	29
2.6 Summary .....	30



## **APPENDICES**

Appendix A: Acronyms

Appendix B: Suggested Continuous Release Reporting Format (Blank)

Appendix C: Suggested CR-ERNS Reporting Format--Addendum to TRI Form R (Blank)

Appendix D: Completed Suggested Continuous Release Reporting Format

Appendix E: Completed Suggested CR-ERNS Reporting Format -- Addendum to TRI Form R

## LIST OF EXHIBITS

<b>EXHIBITS</b>	<b><u>Page</u></b>
Exhibit 1-1: Reporting Requirements Under CERCLA Section 103 and EPCRA Section 304 . . . . .	2
Exhibit 1-2: Definitions . . . . .	4
Exhibit 1-3: Standard Reporting Requirements . . . . .	6
Exhibit 1-4: Circumstantial Reporting Requirements . . . . .	8
Exhibit 1-5: Where to Submit Continuous Release Reports for Releases of CERCLA Hazardous Substances . . . . .	10
Exhibit 1-6: Where to Submit Continuous Release Reports for Releases of Non-CERCLA EHSs . . . . .	11
Exhibit 1-7: EPA Regional Superfund Offices . . . . .	14
Exhibit 2-1: Checklist of Information Required in the Initial and Follow-up Written Reports . . . . .	19
Exhibit 2-2: Sources of Information for Identifying the Location of Your Facility . . . . .	20
Exhibit 2-3: Definitions . . . . .	21
Exhibit 2-4: Estimated Average Stream Flow Rates . . . . .	24
Exhibit 2-5: Sources of Information for Estimating Average Lake Depth . . . . .	24
Exhibit 2-6: Normal Range . . . . .	24
Exhibit 2-7: Examples of Reporting Single Hazardous Substances . . . . .	25
Exhibit 2-8: Example of Reporting a Mixture . . . . .	26
Exhibit 2-9: Calculation of the SSI Trigger for a Hazardous Substance . . . . .	27

## BACKGROUND

The purpose of this document, “Reporting Requirements for Continuous Releases of Hazardous Substances - A Guide for Facilities on Compliance” (Guide), is to help you understand the definitions and requirements contained in the U.S. Environmental Protection Agency's (EPA's) Final Rule on “Reporting Continuous Releases of Hazardous Substances” (55 Federal Register 30166) published on July 24, 1990, which amended 40 Code of Federal Regulations Parts 302 and 355. The Continuous Release Rule provides a reduced reporting option for facilities that release hazardous substances in a manner that is continuous, and stable in quantity and rate. This Guide has been designed to provide facilities who choose this reduced reporting option with the information necessary to successfully comply with the continuous release reporting.

The Guide is divided into two parts. Part 1 provides general information in a question and answer format regarding the Continuous Release Rule and the responsibility of the person in charge of a facility to report releases of hazardous substances. Part 2 contains detailed instructions on how to prepare continuous release reports that include all of the information required to qualify for reduced reporting under the Rule. Although the Rule applies to both facilities and vessels, because the reporting elements from vessels are somewhat different from those of facilities (e.g., vessels by their nature do not have a set location), this Guide will only address the reporting requirements for facilities. Much of the information in this Guide is applicable to vessels, however, persons in charge of vessels who wish to report under the Continuous Release Rule should contact EPA to discuss vessel-specific requirements in detail.

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## PART 1: REPORTING REQUIREMENTS FOR CONTINUOUS RELEASES OF HAZARDOUS SUBSTANCES

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### 1.0 Introduction

Part 1 of the Reporting Requirements for Continuous Releases of Hazardous Substances - A Guide for Facilities on Compliance (Guide) explains the general reporting (notification) requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the Emergency Planning and Community Right-to-Know Act (EPCRA) for hazardous substances, as well as a number of relevant terms. In addition, it provides information on what qualifies as a continuous release under the Rule, and describes the continuous release reduced reporting requirements in detail, including how, when, and to whom such releases must be reported.

### 1.1 CERCLA and EPCRA Release Reporting Requirements

Section 103(a) of CERCLA "as amended" and EPA's implementing regulations (40 Code of Federal Regulations (CFR) 302.8) require the person in charge of a facility to immediately notify the Federal government (the National Response Center or NRC) whenever a reportable quantity (RQ) or more of a CERCLA hazardous substance is released unless the release is federally permitted. The purpose of this requirement is to notify officials of potentially dangerous releases so that they can evaluate the need for a response action. CERCLA hazardous substances are defined in Section 101(14) of CERCLA and include over 800 specific CERCLA listed substances (40 CFR 302.4), as well as, hazardous substances that have been defined under other statutes.

Likewise, Section 304 of EPCRA (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA)) and EPA's implementing regulations (40 CFR 355.40) require the owner or operator of a facility to immediately notify state and local officials whenever an RQ or more of a

CERCLA hazardous substance is released. These same Sections also require the owner or operator of a facility to immediately notify state and local authorities whenever there is a release of an RQ or more of any of the 356 listed Extremely Hazardous Substances (EHSs); approximately 222 of these EHSs are not CERCLA hazardous substances, but are non-CERCLA EHSs. Notifications under Section 304 of EPCRA must be given both to the local emergency planning committee (LEPC) of any area likely to be affected by the release and to the state emergency response commission (SERC) of any state likely to be affected by the release. If the release is located on Tribal lands and a Tribal Emergency Response Commission (TERC) exists, notification must be given to the appropriate TERC. For the purposes of this Guide, all references to requirements for reporting to SERCs and LEPCs under EPCRA should be construed to include the same requirements for reporting to TERCs, if appropriate.

The reporting requirements between CERCLA and EPCRA are slightly different. These differences are outlined in **Exhibit 1-1** and are reviewed in the following sections.

#### What is a facility?

A "facility" is defined under CERCLA to include any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft or any site or area where a hazardous substance has been deposited, stored, disposed of or placed, or otherwise come to be located. There may be one or more facilities at a particular site. For example, a site may be comprised of four facilities including one building, one lagoon, and two storage containers.

The definition of the term "facility" under EPCRA differs from the CERCLA definition. Under Section 329(4) of EPCRA, a facility is defined as all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites that are owned and controlled by the same person. For emergency release reporting, the EPCRA definition of facility also includes motor vehicles, rolling stock, and aircraft.

**EXHIBIT 1-1:  
REPORTING REQUIREMENTS UNDER CERCLA SECTION 103 AND EPCRA SECTION 304**

	<b>CERCLA Section 103</b>	<b>EPCRA Section 304</b>
<b>Definition of a Facility</b>	Defined in Section 101(9) of CERCLA as including any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft on any site or area where a hazardous substance has been deposited, stored, disposed of or placed, or otherwise come to be located.	A facility is defined in Section 329(4) of EPCRA as <u>all</u> buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites that are owned and controlled by the same person.
<b>Relevant Chemical List</b>	CERCLA hazardous substances (40 CFR 302.4)	CERCLA hazardous substances (40 CFR 302.4) and 356 EPCRA Section 302 EHSs (Appendix A to 40 CFR 355)
<b>Notification Requirements</b>	National Response Center (NRC)	SERC(s), LEPC(s), and TERC(s)
<b>Constituents of a Release</b>	Any release at or above a specified Reportable Quantity (RQ) into the environment (on-site or off-site)	Any release at or above a specified Reportable Quantity (RQ) with exposure to off-site environment

**When does a hazardous substance release occur?**

Under CERCLA, a "release" occurs when a hazardous substance enters the environment. A key element of the definition of release is the phrase "into the environment." The environment includes all media: air, land (surface or subsurface strata), surface water, and ground water (including drinking water supply). Examples of hazardous substances released into the environment include: releases from pipes onto the ground; releases from stacks into the air; or other uncontained discharges. If such a release of a CERCLA hazardous substance occurs in a quantity that equals or exceeds an RQ in a 24-hour period, it must be reported immediately to the NRC.

The definition of a release is similar under EPCRA, however generally EPCRA reporting requirements do not apply if the release results in exposure to persons solely within the facility (i.e., site) boundaries. Releases of CERCLA hazardous substances and EHSs in quantities that equal or exceed an RQ must also be reported to the SERC and LEPC.

**What is a reportable quantity?**

Each CERCLA hazardous substance is assigned an RQ. When an RQ or more of a CERCLA hazardous substance is released from a facility during a 24-hour period, it triggers the reporting requirements of Section 103 of CERCLA. An RQ is not an absolute measure of the risk associated with the hazardous substance; the purpose of an RQ is to trigger the reporting of a hazardous substance release. The actual risk posed to human health and the environment will vary with the circumstances of the particular release; many factors other than the size of the release may influence the risk and thus the need for a government response. Except for radionuclides (which are expressed in curies), the RQ is expressed in pounds (i.e., 1 lb, 10 lbs, 100 lbs, 1000 lbs, 5000 lbs). You can find a list of hazardous substances and their associated RQs in the CFR in Table 302.4 at 40 CFR Part 302.

EHSs that are not CERCLA hazardous substances (i.e., non-CERCLA EHSs) are assigned reporting triggers (RQs) under Section 304 of EPCRA.

RQs for non-CERCLA EHSs were adjusted on May 7, 1996 at 61 FR 20473 and are in 40 CFR Part 355. EPCRA

Section 304 requires that any release of an EHS that equals or exceeds an RQ established under either CERCLA or EPCRA be reported immediately to the appropriate SERC and LEPC.

#### **How are releases of CERCLA hazardous substances reported?**

Generally, CERCLA Section 103(a) requires the person in charge of a facility to notify the NRC immediately if that person has knowledge that an RQ or more of a hazardous substance has been released from the facility within a 24-hour period. To determine whether an RQ or more of a specific CERCLA hazardous substance has been released within a 24-hour period, the person in charge must consider the amount released from all sources at the facility and determine if together the release of the hazardous substance equals or exceeds an RQ. For example, if a facility has three sources, each releasing 1/3 of an RQ of a CERCLA hazardous substance X over the same 24-hour period, and the release of hazardous substance X is not federally permitted, the person in charge must report that release to the NRC. (The NRC's telephone number is listed on page 15 of this Guide).

The EPCRA Section 304 reporting requirements parallel the CERCLA notification requirements, but apply to the owner or operator of a facility, and are intended to make release information available immediately to state and local authorities. For the purposes of EPCRA, to determine whether an RQ or more of a CERCLA hazardous substance or EHS has been released over a 24-hour period, the owner or operator must consider the amount released from all sources at the facility and determine if together the release of the hazardous substance equals or exceeds an RQ. For example, if a facility has three sources, each releasing 1/3 of an RQ of a CERCLA hazardous substance or non-CERCLA EHS X over the same 24-hour period, and the release of hazardous substance X is not federally permitted, the person in charge must report that release to the appropriate SERC and LEPC. You can obtain the telephone numbers for appropriate state authorities (SERC) and local authorities (LEPC) by calling the RCRA/Superfund/EPCRA Hotline. See page 15 of this Guide for telephone numbers.

The primary reason for these notification requirements is to alert government officials to releases of CERCLA hazardous substances and EHSs that may require a timely response action to prevent or mitigate damage to public health or welfare or the environment.

## **1.2 Continuous Releases**

#### **What is the continuous release reduced reporting option?**

CERCLA Section 103(f)(2) and EPA's implementing regulations at 40 CFR Parts 302 and 355, provide a special reduced reporting option for "continuous" releases of CERCLA hazardous substances and EHSs. This CERCLA and EPCRA reporting relief applies to facilities that release CERCLA hazardous substances or EHSs that are "continuous" and "stable in quantity and rate" under the regulatory definition of 40 CFR 302.8(b). For these types of releases, reporting facilities can choose either to: 1) report on a per occurrence basis, or 2) report as a "continuous" release in accordance with the Continuous Release Rule, "Reporting Continuous Releases of Hazardous Substances" (55 FR 30166) published on July 24, 1990, which amended 40 CFR Parts 302 and 355.

The purpose of CERCLA Section 103(f)(2) is to reduce reporting of predictable release notifications. CERCLA Section 103(f)(2), however, does not eliminate the requirement to report. Government response officials need to receive some notification of each hazardous substance release that equals or exceeds an RQ on a continuous basis, so that the release can be evaluated and if necessary, a response action can be taken.

#### **What is a continuous release?**

A "continuous release" is a release of a hazardous substance that is "continuous" and "stable in quantity and rate" under the regulatory definitions of these terms listed in **Exhibit 1-2**. A continuous release may be a release that occurs 24 hours a day (e.g., a radon release from a stockpile) or a release that occurs during a certain process (e.g., benzene released during the production of polymers) or a release that occurs intermittently (e.g., the release of a hazardous substance from a tank vent each time the tank is filled).

## EXHIBIT 1-2: DEFINITIONS

**Continuous.** A continuous release is a release that occurs without interruption or abatement, or that is routine (i.e., occurs during normal operating procedures or processes), anticipated, intermittent, and incidental to normal operations.

**Stable in quantity and rate.** A release that is stable in quantity and rate is a release that is predictable and regular in the amount and rate of emission.

Some releases resulting from malfunctions may also qualify for reduced reporting as continuous releases under Section 103(f)(2) if they are incidental to normal plant operations or treatment processes, are stable in quantity and rate, and either (1) occur without interruption or abatement or (2) are routine, anticipated, and intermittent. For example, fugitive emissions from valves that occur at different rates over the course of a production cycle may be a malfunction that qualifies for reduced reporting. The determinative question of whether any release, including a malfunction, qualifies for reporting under Section 103(f)(2) is whether the release satisfies the definitions of "continuous" and "stable in quantity and rate."

Releases must be sufficiently predictable and regular so that the person in charge, or the owner or operator of the facility can provide a full description of the release to government authorities. Upon receipt of continuous release information, government officials will evaluate the risk associated with the release and determine the need for a response action.

### **Do releases that result from unanticipated events qualify for reduced reporting as continuous releases?**

Releases of CERCLA hazardous substances that are the result of unanticipated incidents do not qualify for reduced reporting under Section 103(f)(2). Such episodic incidents include spills, equipment failures, or the emergency shutdown of equipment. Also included are releases from malfunctions that are not continuous or stable, such as pipe ruptures. Although these releases may occur with some regular statistical frequency, unanticipated incidents by their nature do not produce releases that are continuous or sufficiently regular or predictable in quantity and rate to satisfy the requirements for reporting them as continuous

releases. If you are aware that such an episodic release of a CERCLA hazardous substance has occurred in a quantity equal to or greater than an RQ, you must report the release immediately to the NRC, SERC, and LEPC.

### **How do you handle simultaneous continuous releases from several sources and determine whether such releases must be reported?**

To determine whether a hazardous substance release is reportable under CERCLA, you must identify whether the release equals or exceeds an RQ. If your facility is releasing a hazardous substance from several sources simultaneously, you must aggregate the releases of the hazardous substance across all of the facility's sources to determine whether an RQ or more of a hazardous substance has been released from your facility.

If you release an RQ or more of the same CERCLA hazardous substance from more than one facility (e.g., building, surface impoundment, or lagoon), the Continuous Release Rule (40 CFR 302.8(l)) provides you with two reporting options under CERCLA. To meet the requirements of CERCLA, you may either: 1) aggregate multiple concurrent releases of the same hazardous substance from contiguous or adjacent facilities and report them in a single notification; or 2) consider releases from each facility separately and submit separate reports on a facility-specific basis. Under EPCRA the definition of facility includes all "buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites that are owned and controlled by the same person" therefore, all releases from contiguous or adjacent facilities are, by definition, aggregated. For the purposes of EPCRA, these items must be reported as one facility.

Although under CERCLA you may select either option for reporting continuous releases, whichever option you select must be used for all continuous release reporting. For example, if you report releases on a facility-specific basis, statistically significant increases (SSIs) in the release must also be reported on a facility-specific basis. If you select the option of aggregating releases from contiguous or adjacent facilities and reporting them in a single notification, you may have a single SSI trigger for all the releases.

## **How do you establish a basis for reporting releases as continuous?**

To qualify a release for reporting as a continuous release, you must establish a basis for asserting that the release is continuous and stable in quantity and rate. The Continuous Release Rule provides you with flexibility in establishing this basis. You may report the release to either the NRC (for CERCLA hazardous substances) or the appropriate SERC and LEPC (for CERCLA hazardous substances and non-CERCLA EHSs) on a per-occurrence basis for the period of time necessary to establish that the pattern of the release is continuous and stable. However, if you have a sufficient basis for establishing the continuity, quantity, and regularity of a release, multiple reports are not necessary. A one-time telephone call to each of the appropriate authorities (the NRC, SERC, and LEPC for CERCLA hazardous substances, or only the SERC and LEPC for non-CERCLA EHSs) will alert them to your intent to report the release as a continuous release.

You may establish the pattern of the release by relying on past release data, engineering estimates, your knowledge of the facility's operations and release history, or your best professional judgment. Monitoring data are not required. Regardless of which method is used, however, all estimates reported for a particular release must have a sound technical basis. The basis for asserting that the release is continuous and stable in quantity and rate will be included in your written report.

## **Are the reporting requirements different under CERCLA and EPCRA?**

The reporting requirements for CERCLA and EPCRA are slightly different. CERCLA covers only CERCLA hazardous substances. EPCRA covers both CERCLA hazardous substances, and EPCRA EHSs (EPCRA EHSs are made up of some CERCLA hazardous substances and some non-CERCLA hazardous substances).

CERCLA hazardous substances must be reported: 1) in accordance with CERCLA, to the NRC; 2) in accordance with EPCRA, to the appropriate SERC and LEPC. Those listed EHSs which are also CERCLA hazardous substances fall under both CERCLA and EPCRA and must also be reported to the NRC, SERC, and LEPC.

Non-CERCLA EHSs (those EHSs which are not covered under CERCLA) are governed by EPCRA and so must only be reported to the appropriate SERC and

LEPC. The remainder of this Guide will discuss reporting requirements to the NRC, SERC, and LEPC in detail, and these requirements will also be illustrated in several exhibits. However, it is important to remember that in all cases non-CERCLA EHSs need not be reported to the NRC.

**Exhibit 1-1**, on page 2, explains the different reporting requirements under CERCLA and EPCRA, including the definition of facility, the relevant chemical list, notification requirements, and constituents of a release.

## **What reporting is required for continuous releases of CERCLA hazardous substances?**

Although Section 103(f)(2) provides for reduced reporting of continuous releases, it does not eliminate the need to report such releases. The continuous release reporting requirements for CERCLA hazardous substances are described in detail in Section 1.2 - Reporting Continuous Releases. The different types of continuous release telephone notification and written reports are explained more fully on the following pages. There are three standard reporting requirements: the initial telephone notification; the initial written report; and the written first anniversary follow-up report. In all cases, each facility must submit these reports. These main reporting requirements are outlined in **Exhibit 1-3** on page 6. In addition to the standard reporting requirements, there are three additional reports for special circumstances: a report of an SSI and two types of reports of changes in previously submitted continuous release information. These special reports will only be submitted by those facilities that encounter these particular situations. The additional circumstantial reporting requirements are outlined in **Exhibit 1-4** on page 8. **Exhibit 1-5**, on page 10, outlines where to submit continuous release reports for release of CERCLA hazardous substances. In addition, to help you understand the reporting requirements of the Rule, Part 2 of this Guide contains specific procedures and instructions for complying with the requirements for CERCLA hazardous substances.

## **What reporting is required for non-CERCLA EHSs?**

Releases of non-CERCLA EHSs may qualify as continuous releases as long as they satisfy the regulatory definitions in the Continuous Release Rule. Therefore, continuous releases of non-CERCLA EHSs are entitled to reduced reporting requirements under



EPCRA. The continuous release notification requirements for such releases are slightly different from the requirements for releases of CERCLA hazardous substances as described below.

If your facility has a continuous release of a non-CERCLA EHS, you must establish the release as continuous and stable in quantity and rate by making an initial telephone call to the appropriate SERC and LEPC, and by submitting an initial written report to the SERC and LEPC. These notifications will provide state and local response officials with sufficient information to assess the release and to determine whether it qualifies for reduced reporting.

Additional circumstantial reporting requirements for non-CERCLA EHSs that are continuous and stable in quantity and rate include immediate reporting of SSIs and reporting changes in the source or composition of the release. Under the requirements of EPCRA Section 304, you must submit a written follow-up notice to the SERC and LEPC within 30 days of a report of an SSI.

**Exhibit 1-6**, on page 11, illustrates to whom you must submit each type of continuous release report for releases of non-CERCLA EHSs. For a summary of the information required in the reports you must submit for continuous releases, please refer to Part 2.

### 1.3 Reporting Continuous Releases

#### **What are the standard requirements for reporting a continuous release of a hazardous substance?**

There are three steps in the standard continuous release reporting process. Each step in the process involves a different type of continuous release notification. The three types of notification required to report a CERCLA hazardous substance are summarized in **Exhibit 1-3**. The reporting requirements for non-CERCLA EHSs are slightly different and will be addressed in detail in the following sections.

To begin the reporting process for continuous releases, you must have a sufficient basis for establishing that the release is continuous and stable in quantity and rate. Once such a basis has been established, the initial telephone notification should be made.

#### **EXHIBIT 1-3: STANDARD REPORTING REQUIREMENTS**

The reporting requirements for continuous releases of CERCLA hazardous substances are:

- Step 1** Initial telephone notification to the NRC, SERC, and LEPC;
- Step 2** Initial written report to the EPA Regional Office, SERC, and LEPC; and
- Step 3** A one-time first anniversary follow-up report to the EPA Regional Office.

#### **Step 1: Initial Telephone Notification**

For CERCLA hazardous substances, you must make an initial telephone call to three separate government authorities: the NRC, the appropriate SERC, and the appropriate LEPC. For non-CERCLA EHSs, you need only call the appropriate SERC and LEPC. In either case, the initial telephone calls will alert authorities to your intent to report a release as a continuous release. When calling, please be certain that your intent is clear to those receiving your telephone call. See Part 2 of this Guide for a summary of the information that must be provided to government officials in the initial telephone call.

#### **How will EPA identify continuous release reports?**

If you are reporting a release of a CERCLA hazardous substance, when you make the initial telephone notification, the NRC will assign a case number to your release report. This case number will become EPA's identifier for your facility. EPA calls this number your facility's CR-ERNS number. You must use this CR-ERNS number on all future release reports or correspondence related to continuous releases from your facility. The CR-ERNS number will identify your facility and will enable EPA to link all reports about releases from your facility. If you misplace your CR-ERNS number, contact the appropriate EPA Regional Office and provide information identifying your facility.

Since your facility has only one overall “continuous release” (which may be made up of a number of individual continuous releases of hazardous substances from a number of sources) your facility should have only one CR-ERNS number. Once assigned to your facility, the CR-ERNS number will not change with different release reports such as the follow-up report, statistically significant increase reports, and changed release reports.

If you are reporting a release of a non-CERCLA EHS, since you do not report to the Federal authorities you will not receive a CR-ERNS number. CR-ERNS numbers are only used by EPA to track your continuous release. Since a release of a non-CERCLA EHS will not be reported to EPA, and since your SERC and LEPC will use their own methods to track your release, no CR-ERNS number is required for a release of a non-CERCLA EHS.

If you elect to aggregate multiple concurrent releases of CERCLA hazardous substances from adjacent or contiguous facilities for purposes of reporting continuous releases, you will be assigned only one CR-ERNS number for your aggregated release in your initial telephone call. This number will be the CR-ERNS number for the entire site and should be used on all subsequent release reports and correspondence.

If you misplace your CR-ERNS number, contact your EPA Regional Office (see pages 14 and 15 for telephone numbers), provide information identifying your facility, and the EPA Regional Office will provide you with your CR-ERNS number.

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## Step 2: Initial Written Report

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Within 30 days of the initial telephone notification, you are required to submit an initial written report to the appropriate EPA Regional Office, SERC, and LEPC (for releases of CERCLA hazardous substances) and to only the appropriate SERC and LEPC (for releases of non-CERCLA EHSs). (See pages 14 and 15 for a listing of the addresses of the EPA Regional Offices.) The purpose of this report is to confirm your intent to report your release as a continuous release under Section 103(f)(2), and to provide government response officials with sufficient information about your release to enable them to determine if the release qualifies as a continuous release. The information will also allow government

officials to identify the potential risks associated with the release.

The initial written report must include specific information about each source of the continuous release. This information should include: a brief statement describing the basis for asserting that the release is continuous and stable in quantity and rate; hazardous substance information; the environmental medium affected (i.e., air, surface water, soil, or ground water); and certain ecological and population density information. A detailed discussion of the requirements of the initial written report is provided in Part 2 of this Guide.

To assist you in preparing both the initial written report and the one-time first anniversary follow-up report discussed below, EPA has included a **Suggested Continuous Release Reporting Format** as **Appendix B** of this Guide. Using the format will ensure that you have provided EPA with all the information required to properly assess your continuous release report. This format is also available electronically for EPA Regional Offices. An example of a properly **Completed Suggested Continuous Release Reporting Format** can be found in **Appendix D**.

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## Step 3: First Anniversary Follow-up Report

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For reports of releases of CERCLA hazardous substances, within 30 days of the first anniversary of your initial written report, you are required to reassess your initial continuous release report and gather the information on all of the reported substances being released. After doing this, you must submit a one-time, written first anniversary follow-up report to the appropriate EPA Regional Office. Please note that the first anniversary follow-up report must be sent to the appropriate EPA Regional Office for all reports of CERCLA hazardous substances, but is not required for reports of non-CERCLA EHSs.

The information required in the written follow-up report is identical to that required in the initial written report, but it should be based on release data gathered over the year (i.e., during the period since the submission of the initial written report). The principal purpose of the follow-up report is to update and confirm the information submitted in the initial written report, thereby providing government authorities with a more accurate baseline against which to evaluate the risks associated with the

continuous release. After you have submitted the follow-up report to the EPA Regional Office, you are responsible for reassessing the release annually, but you are not required to notify EPA of each reassessment unless there is a change in the information previously submitted to EPA.

**Are there additional continuous release reporting requirements?**

There are two additional types of continuous release reporting requirements: a requirement for notification of an SSI and requirements for notification of changes to previously submitted continuous release information. These reports are used during specific circumstances and are illustrated in **Exhibit 1-4**.

**EXHIBIT 1-4: CIRCUMSTANTIAL REPORTING REQUIREMENTS**

There are two types of additional reporting requirements for continuous releases of CERCLA hazardous substances that are only used during specific circumstances. These requirements are:

**(1) Notification of an SSI:**

- Immediate notification of an SSI to the NRC, SERC, and LEPC.

**(2) Notification of a change in previously submitted release information. Either:**

- Notification of a change in source or composition, which is treated as if it were a new release (i.e., with a telephone call to the NRC, SERC, and LEPC, followed by a written report and a first anniversary follow-up report); or
- For CERCLA substances only, notification of any other type of change (e.g., a change in facility ownership) in a written letter to only the EPA Region.

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**Statistically Significant Increase Notifications**

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An SSI is any episodic release of a hazardous substance that exceeds the release quantity delineated in the upper bound of the normal range of the facility's continuous release report. The normal range is defined to include all the releases of a hazardous substance (from all sources) occurring over any 24-hour period under normal operating conditions during the preceding year. Only those releases that are both continuous and stable in quantity and rate may be included in the normal range. The aggregated upper

bounds of the normal range of each hazardous substance is referred to throughout this Guide as the "SSI trigger." A detailed explanation of the SSI trigger and instructions for calculating the trigger are included in Part 2 of this Guide.

An SSI in a continuous release of a CERCLA hazardous substance must be reported to the NRC, SERC, and LEPC as soon as the person in charge is aware that the release exceeds the SSI trigger. SSIs in a continuous release of a non-CERCLA EHS must be reported to the appropriate SERC and LEPC. Because an SSI is a type of episodic release, it is treated as such by the NRC.

The NRC may provide you with an SSI number. This number is not to be confused with your facility's CR-ERNS number. When reporting an SSI, the caller should anticipate that the NRC will ask for information that is similar to what is asked when a person reports any other episodic release incident. SSI reports to the NRC must include the CR-ERNS number assigned to

the facility by the NRC during the original initial telephone notification.

Please note that, it may be possible to adjust the SSI trigger (i.e., change the normal range of the release) if a particular continuous release frequently exceeds the upper bound of the normal range. Specific procedures for modifying the SSI trigger for a hazardous substance are contained in Part 2.

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### **Changes in Previously Submitted Release Information**

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There are two types of reports of changes in previously submitted release information: reports of a change in source or composition; and reports of changes in other information.

### **How do you report changes in source or composition?**

If there is a change in the source or composition of your continuous release of a CERCLA hazardous substance, the release is considered a "new" release. A change in the source or composition of a release may be caused by such factors as equipment modifications or process changes. To continue reporting the release under CERCLA Section 103(f)(2), you must establish the new release as continuous and stable in quantity and rate, with an initial telephone call to the NRC, SERC, and LEPC and, within 30 days, submit an initial written report to the appropriate EPA Regional Office, SERC, and LEPC. When telephoning the NRC, clearly identify the release as a change in the source or composition of a previously reported release and for reports of releases of CERCLA hazardous substances, provide the CR-ERNS number assigned by the NRC in your original initial telephone call. As with your original continuous release report, you must submit a first anniversary follow-up report to the EPA Region for any changes in source or composition of CERCLA hazardous substances.

If there is a change in source or composition of your continuous release of a non-CERCLA EHS, it is also considered a new release. An initial telephone call must be made to the appropriate SERC and LEPC, followed by an initial written report.

### **How do you report changes in other information?**

For all other changes (i.e., changes other than in the source or composition) in the information submitted in any initial written or follow-up report for releases of CERCLA hazardous substances, you must notify the EPA Regional Office by letter within 30 days of determining that the information previously submitted is no longer accurate. Although notification of the SERCs and LEPCs for either CERCLA hazardous substances or non-CERCLA EHSs is not required by the Continuous Release Rule, SERCs and LEPCs should be notified of these changes to properly update the facility's file.

Examples of changes in other information include: changes in the facility ownership; changes in the identity of the person in charge of the facility; or changes in the sensitive populations and ecosystems. All notifications of changes in releases of CERCLA hazardous substances must include the original CR-ERNS number assigned to the facility by the NRC in the initial telephone notification. You must also

include a signed statement with the notification verifying that all reported information on the release submitted to date is accurate and current. A similar signed statement is required in all written correspondence pertaining to the continuous release. For an example of the statement required under the Rule, see Part 2 of this Guide.

#### **1.4 Recordkeeping Requirements**

##### **What are my recordkeeping responsibilities as a person in charge of a facility?**

To satisfy the specific requirements for reporting continuous releases, you are responsible for estimating or calculating the quantities of all continuous releases that you report by whatever methods are appropriate. As stated above, this may involve reliance upon past release data, engineering estimates, knowledge of plant operations and release history, your best professional judgment, or any other method that has a sound technical basis. All estimates, however, must have a sound technical basis.

In addition, you must keep the information substantiating the estimates you have reported on file at your facility. Supporting materials must be kept on file for a period of one year and should substantiate the normal range of the release, the basis for asserting that the release is continuous and stable in quantity and rate, and the other information included in the initial written report, the follow-up report, or the most recent annual evaluation. EPA may question the basis for your determination that a release is continuous and stable or any other submitted information, and may ask to review the substantiating information. It is important, therefore, to keep an accurate account of the history of all continuous releases at your facility and evaluate these releases carefully for changes, and for SSIs as well.

#### **EXHIBIT 1-5**

##### **WHERE TO SUBMIT CONTINUOUS RELEASE REPORTS FOR RELEASES OF CERCLA HAZARDOUS SUBSTANCES**

<b>Continuous Release Reporting Requirements</b>		<b>National Response Center (NRC)</b>	<b>State Emergency Response Commission (SERC)</b>	<b>Local Emergency Planning Committee (LEPC)</b>	<b>Environmental Protection Agency (EPA) Regional Office</b>
<b>Standard Reporting Requirements</b>	<b>Initial Telephone Notification</b>	✓	✓	✓	
	<b>Initial Written Report</b>		✓	✓	✓
	<b>Follow-up Report</b>				✓
<b>Circumstantial Reporting Requirements</b>	<b>SSI Telephone Notification</b>	✓	✓	✓	
	<b>Change of Release Information<sup>1</sup> (New Release)</b>	✓	✓	✓	✓
	<b>Change in Other Information<sup>2</sup> (Letter)</b>				✓

1. A change of previously submitted release information (i.e., source or composition) is treated like a "new release". Therefore, for reports of CERCLA hazardous substances, the person in charge of the facility must first make an initial telephone notification to the NRC, SERC, and LEPC to report the change. The facility must then send a written report to the SERC, LEPC, and appropriate EPA Regional Office. Within 30 days of the first anniversary of the Initial Report, for reports of releases of CERCLA hazardous substances, the facility must send a follow-up report to the appropriate EPA Regional Office.

2. A change in other information is usually a change in general information regarding the facility (i.e., a change in the person in charge of the facility or sensitive population). According to the Rule, a facility is only required to submit a letter to the appropriate EPA Regional Office stating these changes. Although a facility is not required to submit the changes to the SERC and LEPC, it is recommended that a reporting facility do so in order to properly update the facility's files.

#### **EXHIBIT 1-6**

#### **WHERE TO SUBMIT CONTINUOUS RELEASE REPORTS FOR RELEASES OF NON-CERCLA EHSs**

<b>Continuous Release Reporting Requirements</b>		<b>National Response Center (NRC)</b>	<b>State Emergency Response Commission (SERC)</b>	<b>Local Emergency Planning Committee (LEPC)</b>	<b>Environmental Protection Agency (EPA) Regional Office</b>
<b>Standard Reporting Requirements</b>	<b>Initial Telephone Notification</b>		✓	✓	
	<b>Initial Written Report</b>		✓	✓	
	<b>Follow-up Report</b>				
<b>Circumstantial Reporting Requirements</b>	<b>SSI Telephone Notification</b>		✓	✓	
	<b>Change of Release Information<sup>1</sup> (New Release)</b>		✓	✓	
	<b>Change in Other Information<sup>2</sup> (Letter)</b>				

1. A change of previously submitted release information (i.e., source or composition) is treated like a "new release". Therefore, for reports of non-CERCLA EHSs, the owner or operator of the facility must first make an initial telephone notification to the appropriate SERC and LEPC to report the change. The facility must then send a written report to the SERC and LEPC.

2. A change in other information is usually a change in general information regarding the facility (i.e., a change in the person in charge of the facility or sensitive population). According to the Rule, a facility is not required to submit the changes to the SERC and LEPC, but it is recommended that a reporting facility do so in order to properly update the facility's files.

## **1.5 EPA's Role in the Continuous Release Reporting Process**

### **How will continuous release information be processed?**

When EPA receives the CERCLA hazardous substance continuous release information, the Agency will create a file for your facility. The information you submit in the initial written and first anniversary follow-up report will be entered into the Continuous Release - Emergency Response Notification System (CR-ERNS) database. EPA will also enter any reports of changes in the release into CR-ERNS. CR-ERNS is a central depository for all continuous release information received by the NRC and the EPA Regions. Information in CR-ERNS will be stored in a national database at the John A. Volpe National Transportation Systems Center (VNTSC) in Cambridge, MA.

### **How will EPA evaluate the potential threat posed by a continuous release?**

The potential threat posed by a continuous release of a hazardous substance is determined by assessing its toxicity, the quantity and frequency of the release, and the proximity and nature of the potentially exposed population and environment. EPA will evaluate the health and environmental risks posed by continuous releases. Information from written reports will be combined with toxicity information on the hazardous substance(s) released to generate risk estimates for each release. It is important, therefore, that the information you report is as accurate as possible. If data elements are missing, EPA will be forced to use conservative estimates.

### **What assistance will be provided by EPA throughout the reporting process?**

EPA has included a **Suggested Continuous Release Reporting Format** for written reports located in **Appendix B** of this Guide. This suggested Format is designed to assist you in completing the written reports and ensuring that all of the required information is included in your written reports.

In addition, on page 19 of this Guide, you can find **Exhibit 2-1**, a checklist of the information

required in the initial written report and first anniversary follow-up reports. This checklist provides an overview of the information required and is another means that you can use to verify that all required information has been collected and submitted.

In addition to the detailed explanation of the specific continuous release reporting requirements contained in this Guide, your EPA Region or the RCRA/Superfund/EPCRA Hotline (telephone numbers are provided on pages 14 and 15) can also provide assistance in understanding and complying with all reporting requirements.

### **What actions may EPA take in response to continuous release reports?**

Under CERCLA, EPA has authority to evaluate and respond to releases of hazardous substances. EPA can rely on the broad response authority available under CERCLA Sections 104, 106, and 107 to respond to continuous releases, as well as episodic releases. The actions EPA may choose to take include, but are not limited to, the following:

If EPA has doubts or questions about any portion of your report or about the basis reported for establishing a release as continuous, you may be asked to clarify your report or to submit additional information;

If you have not already done so, EPA may request that you establish a release as continuous and stable by reporting it for some period of time on a per-occurrence basis under CERCLA Section 103(a);

EPA may alert a permit program office or other office that a release from your facility merits further evaluation and possible response action; or

EPA may decide to perform a site inspection or field response at your facility.

### **If the person in charge of a facility does not receive comments from EPA regarding a continuous release report, should it be assumed that the report is approved?**

EPA's receipt of a continuous release report without comment does not indicate approval of the report or the information it contains. EPA, SERCs, and LEPCs may re-evaluate the information submitted



in any continuous release report at any time, and may contact the person in charge of the facility to review the basis for reporting the release as a continuous release under Section 103(f)(2). There is no time limit for EPA's review.

## 1.6 Additional Questions

### **Can the Toxic Release Inventory form be used to satisfy continuous release reporting requirements?**

To minimize any possible duplication in the reporting process, the Continuous Release Rule allows you to submit the EPCRA Section 313 Toxic Release Inventory (TRI) Form R as a substitute for the written initial or follow-up report, provided that you include certain additional required continuous release information. This additional information will provide EPA with details about the continuous release that are not available from the EPCRA Section 313 report (Form R), but that are required to evaluate the risks associated with the release properly.

This additional information should be reported on a special CR-ERNS format for TRI reporters called **Suggested CR-ERNS Reporting Format -- Addendum to TRI Form R**. This special format appears as **Appendix C** to this Guide. The format includes all elements of information needed to complement the TRI Form R information in order to comply with the Continuous Release Rule. **Appendix E** is an example of a properly **Completed CR-ERNS Reporting Format -- Addendum to TRI Form R**.

## 1.7 Where to Submit Written Reports

Your continuous release report and any written follow-up reports or changes should be submitted to your EPA Regional Office. **Exhibit 1-7** provides the addresses of each Regional office and shows the location of all of the EPA Regions.

**EXHIBIT 1-7  
EPA REGIONAL SUPERFUND OFFICES**

**EPA Regional Offices**

- EPA, Region 1  
CR-ERNS Coordinator  
Emergency Response Section  
JFK Building  
Boston, MA 02203-2211  
(617) 573-9682
- EPA, Region 2 - Building 209  
CR-ERNS Coordinator  
Response & Prevention Branch  
2890 Woodbridge Avenue  
Edison, NJ 08837-3697  
(908) 321-4357
- EPA, Region 3 (3HW-30)  
CR-ERNS Coordinator  
Superfund Removal Branch  
841 Chestnut Building  
Philadelphia, PA 19107  
(215) 566-3293
- EPA, Region 4  
CR-ERNS Coordinator  
Title III Section  
61 Forsyth Street  
Atlanta, GA 30303  
(404) 562-8718
- EPA, Region 5  
CR-ERNS Coordinator  
Emergency & Remedial Response Sec.  
77 West Jackson Street  
Chicago, IL 60604  
(312) 886-6028
- EPA, Region 6  
CR-ERNS Coordinator  
Chief, Emergency Response Branch  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733  
(214) 665-2292

- EPA, Region 7  
CR-ERNS Coordinator  
Emergency Response & Spill Branch  
726 Minnesota Ave.  
Kansas City, KS 66101  
(913) 551-7118
- EPA, Region 8  
CR-ERNS Coordinator  
999 18th Street, Suite 500  
Denver, CO 80202-2466  
(303) 312-6239
- EPA, Region 9  
CR-ERNS Coordinator  
Field Operations Branch  
75 Hawthorne Street  
San Francisco, CA 94105  
(415) 744-2339
- EPA, Region 10  
CR-ERNS Coordinator  
Superfund Response and  
Investigation Section  
1200 6th Avenue  
Seattle, WA 98101  
(206) 553-1673

SERCs and LEPCs.

- Call the RCRA/Superfund/EPCRA Hotline for the addresses and telephone numbers of local SERCs and LEPCs.

## 1.8 Sources for Further Information

National Response Center (NRC). 24 hour toll-free telephone number for reporting spills only (not an information hotline): 1-800-424-8802; Washington, DC area: 202-267-2675.

RCRA/Superfund/EPCRA Hotline. Toll-free telephone number: 1-800-424-9346; Washington, DC area: 1-703-412-9810.

- The Telecommunications Device for the Deaf (TDD) Hotline number is toll-free: 1-800-553-7672; the Washington, DC area: 703-486-3323.

- The RCRA/Superfund/EPCRA Hotline is open from 8:30 a.m. to 7:30 p.m. (EST) Monday through Friday, excluding federal holidays.

National Technical Information Service (NTIS). Open 8:30 a.m. to 5 p.m. (EST) Monday through Friday. General telephone number: 703-487-4600.

Message

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**From:** Thomas, Latosha [Thomas.Latosha@epa.gov]  
**Sent:** 11/27/2017 5:46:23 PM  
**To:** Taylor, Trish [Taylor.Trish@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Hull, George [Hull.George@epa.gov]  
**Subject:** RE: CERCLA/EPCRA mandate stayed until January 22

Hi Trish,

We'll definitely try to make that deadline. It needs to undergo internal review here. Once that's done, I will send. Thanks!

---

**From:** Taylor, Trish  
**Sent:** Monday, November 27, 2017 12:43 PM  
**To:** Thomas, Latosha <Thomas.Latosha@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Hull, George <Hull.George@epa.gov>  
**Subject:** RE: CERCLA/EPCRA mandate stayed until January 22

Can you get it to me by 1:30?

---

**From:** Taylor, Trish  
**Sent:** Monday, November 27, 2017 11:48 AM  
**To:** Thomas, Latosha <Thomas.Latosha@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Hull, George <Hull.George@epa.gov>  
**Subject:** RE: CERCLA/EPCRA mandate stayed until January 22

Great Thanks. I asked for a deadline and will let you know as soon as I hear back. However, I would consider it a quick turn-around, since it'll have to be reviewed/approved by Barry before it goes to OPA.

---

**From:** Thomas, Latosha  
**Sent:** Monday, November 27, 2017 11:36 AM  
**To:** Taylor, Trish <Taylor.Trish@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Hull, George <Hull.George@epa.gov>  
**Subject:** RE: CERCLA/EPCRA mandate stayed until January 22

Hi Trish,

We're on it. When do we need to have this to you today?

---

**From:** Taylor, Trish  
**Sent:** Monday, November 27, 2017 11:34 AM  
**To:** Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Hull, George <Hull.George@epa.gov>  
**Subject:** FW: CERCLA/EPCRA mandate stayed until January 22  
**Importance:** High

Hi Latosha,

OPA would like to put a press release out today about the extension. Below is the one we used in October. Could you update it to reflect the new information?

Thanks so much.  
Trish

## EPA Releases Guidance on Reporting Air Emissions of Hazardous Substances from Animal Waste at Farms

10/26/2017

Contact Information:  
([press@epa.gov](mailto:press@epa.gov))

**(WASHINGTON)** — Today, EPA is releasing guidance to assist farmers in reporting air releases of hazardous substances from animal waste at farms. EPA is making this information available to provide time for farmers to review and prepare for the reporting deadline, currently set for November 15, 2017.

“EPA is working diligently to address undue regulatory burden on American farmers,” **said Administrator Scott Pruitt**. “While we continue to examine our options for reporting requirements for emissions from animal waste, EPA’s guidance is designed to help farmers comply with the current requirements.”

On December 18, 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. On April 11, 2017, the DC Circuit Court vacated this final rule. In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017. Unless the court further delays this date, all farms (including those previously exempted) that have releases of hazardous substances to air from animal wastes equal to or greater than the reportable quantities for those hazardous substances within any 24-hour period must provide notification of such releases.

The EPA guidance information includes links to resources that farmers can use to calculate emissions tailored to specific species of livestock. To view EPA’s guidance and Frequently Asked Questions on reporting air emissions from animal waste: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>.

EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations. Interested parties may submit comments or suggestions by November 24, 2017.

This is also online at: <https://www.epa.gov/newsreleases/epa-releases-guidance-reporting-air-emissions-hazardous-substances-animal-waste-farms>

Message

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**From:** Mayer, Eileen [Mayer.Eileen@epa.gov]  
**Sent:** 9/11/2017 2:30:26 PM  
**To:** Taylor, Trish [Taylor.Trish@epa.gov]  
**Subject:** RE: OLEM Response RE: Inquiry from Congressman Harris' Office on CERCLA/EPCRA Reporting Requirements for CAFOs

Great. Thank you for the update!

Eileen M. Mayer  
Web Editor-in-Chief (EPCRA, RMP, Oil Spills Regulations, and Emergency Response)  
Office of Emergency Management  
U.S. Environmental Protection Agency  
202-564-9628

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**From:** Taylor, Trish  
**Sent:** Monday, September 11, 2017 10:20 AM  
**To:** Mayer, Eileen <Mayer.Eileen@epa.gov>  
**Subject:** FW: OLEM Response RE: Inquiry from Congressman Harris' Office on CERCLA/EPCRA Reporting Requirements for CAFOs

Hi Eileen,  
I found the Nov 14<sup>th</sup> reference. We're good.  
The guidance was to be available prior to the Nov 14<sup>th</sup> court date, so the 'end of Sept.' guidance date makes sense.

Btw... the congressman's inquiry was addressed already, so no action needed on it.  
Thanks,  
Trish.

---

**From:** Indermark, Michele  
**Sent:** Thursday, August 24, 2017 12:49 PM  
**To:** Taylor, Trish <Taylor.Trish@epa.gov>  
**Subject:** RE: OLEM Response RE: Inquiry from Congressman Harris' Office on CERCLA/EPCRA Reporting Requirements for CAFOs

Thank you. Yes, we reviewed this.

Michele Indermark  
OLEM/OEM  
Special Assistant  
(w) 202-564-0794

---

**From:** Taylor, Trish  
**Sent:** Thursday, August 24, 2017 12:43 PM

**To:** Indermark, Michele <Indermark.Michele@epa.gov>

**Subject:** FW: OLEM Response RE: Inquiry from Congressman Harris' Office on CERCLA/EPCRA Reporting Requirements for CAFOs

In case you don't already have this

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**From:** Harwood, Jackie

**Sent:** Thursday, August 24, 2017 11:15 AM

**To:** Taylor, Trish <Taylor.Trish@epa.gov>

**Subject:** FW: OLEM Response RE: Inquiry from Congressman Harris' Office on CERCLA/EPCRA Reporting Requirements for CAFOs

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**From:** Harwood, Jackie

**Sent:** Wednesday, August 23, 2017 8:30 AM

**To:** Levine, Carolyn <Levine.Carolyn@epa.gov>

**Cc:** Janifer, Pamela <Janifer.Pamela@epa.gov>

**Subject:** OLEM Response RE: Inquiry from Congressman Harris' Office on CERCLA/EPCRA Reporting Requirements for CAFOs

Hi Carolyn,

Here are OLEM's responses to the questions below.

**Please note:** This is a fast moving issue and we would like to be pulled in as more requests like this come in, so we can update/revise the information before OCIR sends it out.

Let me know if you have any questions or concerns.

Thanks!

---

Jackie Harwood  
OLEM Congressional, State, and Local Liaison  
OCPA/Office of Land and Emergency Management (OLEM)  
U.S. Environmental Protection Agency  
(202) 564-7578  
*Follow OLEM on Twitter: @EPALand*

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**Questions Submitted by Congressman Harris' Staff:**

- **When does the court have to rule on EPA's request to stay the ruling for 6 months?**
  - o The D.C. Circuit Court has recently ruled on EPA's request. On August 16, 2017 the D.C. Circuit issued an order to stay the issuance of the mandate in the *Waterkeeper* case (which invalidated EPA's rule exempting certain farms from CERCLA and EPCRA reporting requirements) until **November 14, 2017**.
- **How long will it take EPA to develop guidance?**
  - o EPA appreciates farmers concerns regarding the burden these reporting requirements may pose and the uncertainty for farms as a result of the Court's decision vacating EPA's final rule.
  - o EPA expects to have guidance available for farmers **before** the end of the Court's stay on November 14, 2017.

- 
- **What is a farmer required to do today?**
  - o Due to the Circuit Court' stay on the ruling in the *Waterkeeper* case, farmers are exempt from reporting releases of hazardous substances into the air from animal waste at farms under CERCLA Section 103, and for all but large concentrated animal feeding operations under EPCRA Section 304. This exemption will be in place until November 14, 2017.
- **What is a farmer required to do while the guidance is being developed?**
  - o Farms which are now exempt from CERCLA 103 and EPCRA 304 reporting due to the Court's stay will remain exempt and do not have to report until November 14, 2017.
  - o EPA expects to have guidance available for farmers to assist them in determining the amount of their emissions, and how to report those emissions if they are above the reportable quantities, before November 14.

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**From:** Janifer, Pamela

**Sent:** Wednesday, August 16, 2017 5:09 PM

**To:** Harwood, Jackie <[Harwood.Jackie@epa.gov](mailto:Harwood.Jackie@epa.gov)>

**Subject:** Inquiry from Congressman Harris' Office on CERCLA/EPCRA Reporting Requirements for CAFOs

Jackie,

In follow-up to our conversation earlier, I wanted to share specific questions R3 has received from Rep. Harris staff. R3 also mentioned a Secretary's meeting is scheduled for next week and it is expected these questions will be raised during the meeting. Do you know if OLEM has prepared any talking points or has some bullets that can be used to respond to these questions. Can you talk to Barry about his thoughts as I think we will continue to receive questions from others. Thanks.

- **When does the court have to rule on EPA's request to stay the ruling for 6 months ?**
- **How long will it take EPA to develop guidance?**
- **What is a farmer required to do today?**
- **What is a farmer required to do while the guidance is being developed?**



Pamela Janifer  
U.S. Environmental Protection Agency  
Office of Congressional Affairs  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202.564.6969  
[Janifer.pamela@epa.gov](mailto:Janifer.pamela@epa.gov)



Message

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**From:** Colip, Matthew [colip.matthew@epa.gov]  
**Sent:** 11/20/2017 1:18:25 PM  
**To:** Taylor, Trish [Taylor.Trish@epa.gov]  
**Subject:** FW: FINAL RESPONSES: NKICD Radio re: CAFOs reporting rule

Trish - FYI

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**From:** Thomas, Latosha  
**Sent:** Friday, November 17, 2017 4:35 PM  
**To:** Jones, Enesta <Jones.Enesta@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>  
**Cc:** Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hull, George <Hull.George@epa.gov>  
**Subject:** RE: FINAL RESPONSES: NKICD Radio re: CAFOs reporting rule

+ George

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**From:** Jones, Enesta  
**Sent:** Friday, November 17, 2017 4:33 PM  
**To:** Thomas, Latosha <Thomas.Latosha@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>  
**Cc:** Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>  
**Subject:** FINAL RESPONSES: NKICD Radio re: CAFOs reporting rule

Thanks again. Approved – and responses sent to the reporter.

Hi George, attributable to an EPA spokesperson:

**How is the new regulation different than what has been in place?**

**EPA has not issued a new regulation.** On December 18, 2008, EPA published a final rule that exempted most farms from reporting requirements for releases of hazardous substances from animal waste to the air. After that December 2008 rulemaking, only large concentrated animal feeding operations (CAFOs) were still required to report releases of hazardous substances from animal waste to the air (under the Emergency Planning and Community Right to Know Act).

A number of citizen groups challenged the validity of EPA's December 2008 final rule in the U.S. Court of Appeals for the District of Columbia Circuit. On April 11, 2017, the Court struck down the final rule, eliminating the reporting exemptions for farms. EPA sought additional time from the Court to delay the effective date so that EPA could develop guidance materials to help farmers understand their reporting obligations. This preliminary guidance is available on the EPA website at: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

**No reporting is required until the Court issues its order, or mandate, enforcing the April 11, 2017, decision.** EPA will update the guidance on the EPA website to provide farmers with notice of when the U.S. Court of Appeals for D.C. Circuit issues its mandate and reporting requirements begin. Once the Court issues its mandate, farms should submit an initial continuous release notification to the National Response Center (NRC) for qualifying releases that occur within a 24-hour period.

#### **How does a farmer know when there's a problem? (Monitoring equipment?)**

EPA recognizes that it will be challenging for farmers to report releases from animal wastes because there is no generally accepted methodology for estimating emission quantities at this time. The regulations allow "continuous releases" to be reported in ranges. EPA understands that farmers may need to report their releases in broad ranges that reflect the high degree of uncertainty and variability of these releases. Resources that may assist farmers in estimating emissions can be found on EPA's website at: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms#Resources>.

#### **What is the process of reporting?**

If a farm has air releases of hazardous substances from animal wastes that are equal to or greater than their reportable quantities (RQs) within any 24-hour period, the farm may follow a streamlined reporting process known as "continuous release reporting." This requires the facility owner or operator to notify the NRC.

For the purposes of the initial continuous release notification, farmers are encouraged to send the notification by email to the NRC at: [NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil)

In order to qualify as a continuous release notification, please note in the subject line of the e-mail that this is an **"initial continuous release notification."**

Include the following in your email ([NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil)):

- Name of the farm;
- Location of the farm (e.g., name of city/town and state);
- Name(s) of the hazardous substance(s) released

You can submit information for multiple facilities (i.e., farms) in one email ([NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil)).

Farmers will receive an automatic response email from the NRC with a single identification number (CR-ERNS) for the farm(s). The CR-ERNS number should be included on the follow-up written notification report that goes to the farmer's EPA Regional Office. The single CR-ERNS number provided should be used for each facility included in the email.

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

#### **4 And then what? Inspection? Clean-Up? Corrective action to avoid future incidents?**

After farmers provide an initial notification by e-mail or phone call to the National Response Center, there are two additional steps:

##### **An initial written notification to the EPA Regional Office.**

***Within 30 days of the e-mail or call to the NRC***, farmers should submit an initial written notification to the EPA Regional Office (<https://www.epa.gov/epcra/cr-erns-regional-contacts>) for the area where the release occurs. Note: Unlike the initial continuous release notification, each facility needs to submit a separate continuous release reporting form.

Farms can use the continuous release reporting form (<https://www.epa.gov/epcra/appendix-b-reporting-requirements-continuous-releases-hazardous-substances>) to provide this initial written notification to the EPA Regional Office. *Please note that this continuous release form is intended for multiple sectors and provides directions to send information to the EPA Regional Offices and to LEPCs and SERCs. **Farms not reporting under EPCRA should not send information to the LEPCs and SERCs.***

EPA is developing a streamlined continuous release reporting form for farm facility owners and operators and plans to make this form available once it is finalized.

##### **A one-time first anniversary follow-up report to the EPA Regional Office.**

***Within 30 days of the first anniversary date of the initial written notification*** (i.e., the first continuous release report), the person in charge of the farm must submit a one-time anniversary report to the EPA Regional Office. The farm owner/operator must verify and update the information initially submitted for each of the hazardous substances reported to the NRC and to the EPA Regional Office. This follow-up report should be re-certified by the person in charge of the farm.

EPA's guide Reporting Requirements for Continuous Releases of Hazardous Substances includes forms to assist farmers with developing written reports. The guide provides an overview of the information required for the initial and first anniversary follow-up reports.

Message

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**From:** Colip, Matthew [colip.matthew@epa.gov]  
**Sent:** 11/17/2017 9:14:57 PM  
**To:** Thomas, Latosha [Thomas.Latosha@epa.gov]  
**CC:** Taylor, Trish [Taylor.Trish@epa.gov]  
**Subject:** RE: ACTION: KICD Radio re: CAFOs reporting rule

Thanks Latosha

Matt

---

**From:** Thomas, Latosha  
**Sent:** Friday, November 17, 2017 4:03 PM  
**To:** Jones, Enesta <Jones.Enesta@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>  
**Cc:** Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>  
**Subject:** RE: ACTION: KICD Radio re: CAFOs reporting rule

Hey Enesta/OLEM comms!

Here are our responses. Thanks!

**Reporter:** George Bower  
**Outlet:** KICD Radio in Spencer, Iowa  
**DDL:** 5 p.m. on 11/17

**Questions:**

**1) How is the new regulation different than what has been in place?**

**EPA has not issued a new regulation.** On December 18, 2008, EPA published a final rule that exempted most farms from reporting requirements for releases of hazardous substances from animal waste to the air. After that December 2008 rulemaking, only large concentrated animal feeding operations (CAFOs) were still required to report releases of hazardous substances from animal waste to the air (under the Emergency Planning and Community Right to Know Act).

A number of citizen groups challenged the validity of EPA's December 2008 final rule in the U.S. Court of Appeals for the District of Columbia Circuit. On April 11, 2017, the Court struck down the final rule, eliminating the reporting exemptions for farms. EPA sought additional time from the Court to delay the effective date so that EPA could develop guidance materials to help farmers understand their reporting obligations. This preliminary guidance is available on the EPA website at:

<https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

**No reporting is required until the Court issues its order, or mandate, enforcing the April 11, 2017, decision.** EPA will update the guidance on the EPA website to provide farmers with notice of when the U.S. Court of Appeals for D.C. Circuit issues its mandate and reporting requirements begin. Once the Court issues its mandate, farms should submit an initial continuous release notification to the National Response Center (NRC) for qualifying releases that occur within a 24-hour period.

## **2) How does a farmer know when there's a problem? (Monitoring equipment?)**

EPA recognizes that it will be challenging for farmers to report releases from animal wastes because there is no generally accepted methodology for estimating emission quantities at this time. The regulations allow “continuous releases” to be reported in ranges. EPA understands that farmers may need to report their releases in broad ranges that reflect the high degree of uncertainty and variability of these releases. Resources that may assist farmers in estimating emissions can be found on EPA’s website at: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms#Resources>.

## **3) What is the process of reporting?**

If a farm has air releases of hazardous substances from animal wastes that are equal to or greater than their reportable quantities (RQs) within any 24-hour period, the farm may follow a streamlined reporting process known as “continuous release reporting.” This requires the facility owner or operator to notify the NRC.

For the purposes of the initial continuous release notification, farmers are encouraged to send the notification by email to the NRC at: [NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil)

In order to qualify as a continuous release notification, please note in the subject line of the e-mail that this is an **“initial continuous release notification.”**

Include the following in your email ([NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil)):

- Name of the farm;
- Location of the farm (e.g., name of city/town and state);
- Name(s) of the hazardous substance(s) released

You can submit information for multiple facilities (i.e., farms) in one email ([NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil)).

Farmers will receive an automatic response email from the NRC with a single identification number (CR-ERNS) for the farm(s). The CR-ERNS number should be included on the follow-up written notification report that goes to the farmer’s EPA Regional Office. The single CR-ERNS number provided should be used for each facility included in the email.

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

## **4) And then what? Inspection? Clean-Up? Corrective action to avoid future incidents?**

After farmers provide an initial notification by e-mail or phone call to the National Response Center, there are two additional steps:

**An initial written notification to the EPA Regional Office.**

***Within 30 days of the e-mail or call to the NRC***, farmers should submit an initial written notification to the EPA Regional Office (<https://www.epa.gov/epcra/cr-erns-regional-contacts>) for the area where the release occurs. Note: Unlike the initial continuous release notification, each facility needs to submit a separate continuous release reporting form.

Farms can use the continuous release reporting form (<https://www.epa.gov/epcra/appendix-b-reporting-requirements-continuous-releases-hazardous-substances>) to provide this initial written notification to the EPA Regional Office. *Please note that this continuous release form is intended for multiple sectors and provides directions to send information to the EPA Regional Offices and to LEPCs and SERCs. Farms not reporting under EPCRA should not send information to the LEPCs and SERCs.*

EPA is developing a streamlined continuous release reporting form for farm facility owners and operators and plans to make this form available once it is finalized.

**A one-time first anniversary follow-up report to the EPA Regional Office.**

***Within 30 days of the first anniversary date of the initial written notification*** (i.e., the first continuous release report), the person in charge of the farm must submit a one-time anniversary report to the EPA Regional Office. The farm owner/operator must verify and update the information initially submitted for each of the hazardous substances reported to the NRC and to the EPA Regional Office. This follow-up report should be re-certified by the person in charge of the farm.

EPA's guide Reporting Requirements for Continuous Releases of Hazardous Substances includes forms to assist farmers with developing written reports. The guide provides an overview of the information required for the initial and first anniversary follow-up reports.

---

**From:** Thomas, Latosha  
**Sent:** Friday, November 17, 2017 10:13 AM  
**To:** Jones, Enesta <[Jones.Enesta@epa.gov](mailto:Jones.Enesta@epa.gov)>; Colip, Matthew <[colip.matthew@epa.gov](mailto:colip.matthew@epa.gov)>; Cohen, Nancy <[Cohen.Nancy@epa.gov](mailto:Cohen.Nancy@epa.gov)>; Benjamin, Kent <[Benjamin.Kent@epa.gov](mailto:Benjamin.Kent@epa.gov)>  
**Subject:** RE: ACTION: KICD Radio re: CAFOs reporting rule

On it! Thanks, Enesta!

---

**From:** Jones, Enesta  
**Sent:** Friday, November 17, 2017 10:12 AM  
**To:** Colip, Matthew <[colip.matthew@epa.gov](mailto:colip.matthew@epa.gov)>; Cohen, Nancy <[Cohen.Nancy@epa.gov](mailto:Cohen.Nancy@epa.gov)>; Benjamin, Kent <[Benjamin.Kent@epa.gov](mailto:Benjamin.Kent@epa.gov)>; Thomas, Latosha <[Thomas.Latosha@epa.gov](mailto:Thomas.Latosha@epa.gov)>  
**Cc:** Jones, Enesta <[Jones.Enesta@epa.gov](mailto:Jones.Enesta@epa.gov)>  
**Subject:** ACTION: KICD Radio re: CAFOs reporting rule

Good day!

**Reporter: George Bower**  
**Outlet: KICD Radio in Spencer, Iowa**  
**DDL: 5 p.m. on 11/17**

**Questions:**

- 1) How is the new regulation different than what has been in place?
- 2) How does a farmer know when there's a problem? (Monitoring equipment?)
- 3) What is the process of reporting?
- 4) And then what? Inspection? Clean-Up? Corrective action to avoid future incidents?

Message

---

**From:** Lowery, Brigid [Lowery.Brigid@epa.gov]  
**Sent:** 3/1/2018 8:35:59 PM  
**To:** Taylor, Trish [Taylor.Trish@epa.gov]  
**Subject:** RE: RE: ACTION: Capital News Service RE: Animal Waste Emissions: DEADLINE: ASAP

Let's flag this for the comms mtg on Monday whether Barry and/or Steven wants to see EPCRA/CERCLA press responses.

---

**From:** Taylor, Trish  
**Sent:** Thursday, March 01, 2018 3:31 PM  
**To:** Lowery, Brigid <Lowery.Brigid@epa.gov>  
**Subject:** FW: RE: ACTION: Capital News Service RE: Animal Waste Emissions: DEADLINE: ASAP

FYSA

---

**From:** Thomas, Latosha  
**Sent:** Thursday, March 01, 2018 3:31 PM  
**To:** Jones, Enesta <Jones.Enesta@epa.gov>; Kelley, Jeff <kelley.jeff@epa.gov>  
**Cc:** Taylor, Trish <Taylor.Trish@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Beki@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>  
**Subject:** RE: ACTION: Capital News Service RE: Animal Waste Emissions: DEADLINE: ASAP

Hi Enesta/John,

Here are OLEM + OGC + R5 + Air's reviewed responses. Thanks!

Also, if you'd please send the final responses you send to the reporter to me as well, that would be great. Thanks!

1. Under the Court's decision, what kind of farms (scale, type, etc.) are required to report their air emissions? How many farms (and ranches?) in Michigan would be affected?

## Deliberative Process / Ex. 5

2. What is the purpose of this decision? Why is the Court deciding to issue a mandate? Does it have anything to do with environmental protection?

## Deliberative Process / Ex. 5



3. Will the Court's air emission reporting requirements result in any new standards to limit emissions from agriculture?

## **Deliberative Process / Ex. 5**

4. Since the [strike] down of the EPA rule by the Court, have the farms in the state reported their air emissions during these months?

## **Deliberative Process / Ex. 5**

5. I'm a little confused about how to measure air emissions in an open-air place such as beef cattle feed lots? Will it be difficult for farmers to measure and report their air emissions?

## **Deliberative Process / Ex. 5**

6. Can you tell me something about the efforts (or plans) your agency is making to prevent or delay the Court's decision?

## **Deliberative Process / Ex. 5**

7. If the decision is finally enacted, what impacts will it bring to farmers in the state? What about its impacts on environment? Will it help to improve air quality?

## **Deliberative Process / Ex. 5**

# Deliberative Process / Ex. 5

Latosha Thomas  
U.S. Environmental Protection Agency  
OLEM/OEM/RMD  
(202) 564-2621 (desk)  
(202) 568-0851 (cell)  
[thomas.latosha@epa.gov](mailto:thomas.latosha@epa.gov)

Message

---

**From:** Lowery, Brigid [Lowery.Brigid@epa.gov]  
**Sent:** 12/12/2017 9:35:34 PM  
**To:** Taylor, Trish [Taylor.Trish@epa.gov]  
**CC:** Benjamin, Kent [Benjamin.Kent@epa.gov]  
**Subject:** RE: ACTION: Capital Press re: farm emissions calculations

I'm good with it.

---

**From:** Taylor, Trish  
**Sent:** Monday, December 11, 2017 4:26 PM  
**To:** Lowery, Brigid <Lowery.Brigid@epa.gov>  
**Cc:** Benjamin, Kent <Benjamin.Kent@epa.gov>  
**Subject:** FW: ACTION: Capital Press re: farm emissions calculations

Hi Brigid,

The draft response was reviewed/approved by K. Jennings, P. Gioffre and Latosha's supervisor B. Roache.

OGC also saw the questions and provided a longer answer to #3, originally, but OEM trimmed it down. (OGC is OK with the abridged response below).

Is this something you think Barry will want to review/approve, before sending it to OPA?

Thanks,  
Trish

---

**From:** Lynn, Tricia  
**Sent:** Monday, December 11, 2017 4:13 PM  
**To:** Taylor, Trish <Taylor.Trish@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Jones, Enesta <Jones.Enesta@epa.gov>  
**Cc:** Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>  
**Subject:** RE: ACTION: Capital Press re: farm emissions calculations

Holding

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**From:** Taylor, Trish  
**Sent:** Monday, December 11, 2017 4:10 PM  
**To:** Thomas, Latosha <Thomas.Latosha@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Lynn, Tricia <lynn.tricia@epa.gov>; Jones, Enesta <Jones.Enesta@epa.gov>  
**Cc:** Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>  
**Subject:** RE: ACTION: Capital Press re: farm emissions calculations

Hi Tricia,  
Please hold off sending this to the reporter. Thanks.

**From:** Thomas, Latosha

**Sent:** Monday, December 11, 2017 4:06 PM

**To:** Taylor, Trish <Taylor.Trish@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Lynn, Tricia <lynn.tricia@epa.gov>; Jones, Enesta <Jones.Enesta@epa.gov>

**Cc:** Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>

**Subject:** RE: ACTION: Capital Press re: farm emissions calculations

Hi All,

Here are our responses to the questions.

Tricia – Could you please send me the final response to the reporter so that I can add it to my press archive?

Thanks!

**Question 1:** Does the EPA plan to provide more guidance, such as providing of how many cows, pigs or chickens it takes to reach the reporting threshold?

## Deliberative Process / Ex. 5

**Question 2:** Will the EPA say the rule applies to farms of a certain size and doesn't apply to others?

## Deliberative Process / Ex. 5

**Question 3:** The EPA came up with an estimate of number of farms affected. How did it come up with that number?

## Deliberative Process / Ex. 5

**From:** Thomas, Latosha

**Sent:** Monday, December 11, 2017 12:23 PM

**To:** Taylor, Trish <Taylor.Trish@epa.gov>

**Cc:** Cohen, Nancy <Cohen.Nancy@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>

**Subject:** RE: ACTION: Capital Press re: farm emissions calculations

Hi,

FYI – The inquiry is with OGC now. Hoping to have something to you all soon. Thanks!

---

**From:** Roache, Brendan

**Sent:** Friday, December 08, 2017 2:13 PM

**To:** Jones, Enesta <[Jones.Enesta@epa.gov](mailto:Jones.Enesta@epa.gov)>; Thomas, Latosha <[Thomas.Latosha@epa.gov](mailto:Thomas.Latosha@epa.gov)>; Taylor, Trish <[Taylor.Trish@epa.gov](mailto:Taylor.Trish@epa.gov)>; Hyman Moore, Julie <[Hyman.Julie@epa.gov](mailto:Hyman.Julie@epa.gov)>; Cohen, Nancy <[Cohen.Nancy@epa.gov](mailto:Cohen.Nancy@epa.gov)>; Colip, Matthew <[colip.matthew@epa.gov](mailto:colip.matthew@epa.gov)>; Cohen, Nancy <[Cohen.Nancy@epa.gov](mailto:Cohen.Nancy@epa.gov)>; Benjamin, Kent <[Benjamin.Kent@epa.gov](mailto:Benjamin.Kent@epa.gov)>

**Cc:** Indermark, Michele <[Indermark.Michele@epa.gov](mailto:Indermark.Michele@epa.gov)>; Franklin, Kathy <[Franklin.Kathy@epa.gov](mailto:Franklin.Kathy@epa.gov)>

**Subject:** RE: ACTION: Capital Press re: farm emissions calculations

Hi,

OEM is drafting answers this afternoon, but it will take a little time for these three questions. We also want to run the answers through OGC for review, so we will need an extension to COB Monday.

Thank you.

Brendan J. Roache  
Division Director  
OLEM-OEM-RMD  
202-564-6117 w  
703-254-4913 c

---

**From:** Jones, Enesta

**Sent:** Friday, December 08, 2017 12:28 PM

**To:** Thomas, Latosha <[Thomas.Latosha@epa.gov](mailto:Thomas.Latosha@epa.gov)>; Taylor, Trish <[Taylor.Trish@epa.gov](mailto:Taylor.Trish@epa.gov)>; Hyman Moore, Julie <[Hyman.Julie@epa.gov](mailto:Hyman.Julie@epa.gov)>; Roache, Brendan <[Roache.Brendan@epa.gov](mailto:Roache.Brendan@epa.gov)>; Cohen, Nancy <[Cohen.Nancy@epa.gov](mailto:Cohen.Nancy@epa.gov)>; Colip, Matthew <[colip.matthew@epa.gov](mailto:colip.matthew@epa.gov)>; Cohen, Nancy <[Cohen.Nancy@epa.gov](mailto:Cohen.Nancy@epa.gov)>; Benjamin, Kent <[Benjamin.Kent@epa.gov](mailto:Benjamin.Kent@epa.gov)>

**Cc:** Jones, Enesta <[Jones.Enesta@epa.gov](mailto:Jones.Enesta@epa.gov)>

**Subject:** ACTION: Capital Press re: farm emissions calculations

Good day!

Reporter: Don Jenkins  
DDL: COB today

I am writing a story this morning about how farmers will calculate emissions for CERCLA. I talked to a professor who co-wrote an emissions calculator that EPA links to from its website offering guidance on complying with the reporting requirement. He said it would be nice if EPA offered clearer guidance. Such as providing estimates of how many cows, pigs or chickens it takes to reach the reporting threshold.

Does the EPA plan to provide more guidance? Will the EPA say the rule applies to farms of a certain size and doesn't apply to others? The EPA came up with an estimate of number of farms affected. How did it come up with that number?

Message

---

**From:** Taylor, Trish [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2BF5F5220F7144D380741509ABAECD7-PTAYLO03]  
**Sent:** 10/16/2017 3:06:18 PM  
**To:** Hull, George [Hull.George@epa.gov]  
**Subject:** RE: CERCLA/EPCRA Animal Waste Draft Webpage  
**Attachments:** DRAFT CERCLA EPCRA Reporting Requirements for Air Releases of Haz Subs from Animal Waste at Farms 101617.docx

Hi George,

Attached is the draft webpage. I tweaked it a bit for readability purposes (fresh, layman eyes). The suggested edits are in red text and Track Changes. They should not affect the legalese of the FAQs.

If you're OK with my suggestions, I'll move it fwd through the review process. I know we're still on hold and this might not happen today. I also know the page could be revised again by sr. mgmt. Moving this forward is only to make sure we are prepared for when we finally do get the green light and the web content isn't held up because I sat on it.

Thx  
Trish

---

**From:** Mayer, Eileen  
**Sent:** Monday, October 16, 2017 9:34 AM  
**To:** Hull, George <Hull.George@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>  
**Subject:** CERCLA/EPCRA Animal Waste Draft Webpage

Hi George and Trish,

Here is the latest draft webpage. To access the page, go to: <https://wcms.epa.gov/user>

Enter your LAN ID and password, then go to:

<https://wcms.epa.gov/node/189743/revisions/592429/view>

Please let me know if you have any questions. Thanks!

Eileen M. Mayer  
Web Editor-in-Chief ([EPCRA](#), [RMP](#), [Oil Spills Regulations](#), and [Emergency Response](#))  
Office of Emergency Management  
U.S. Environmental Protection Agency  
202-564-9628

Message

---

**From:** Harper, Jodi [Harper.Jodi@epa.gov]  
**Sent:** 12/11/2017 3:14:29 PM  
**To:** Thomas, Latosha [Thomas.Latosha@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Hayes, Scott [Hayes.Scott@epa.gov]  
**CC:** Rosado-Chaparro, Wilfredo [Rosado-Chaparro.Wilfredo@epa.gov]  
**Subject:** RE: Update: CERCLA/EPCRA Ag issues 12/5

I am available any time after 1:30 Eastern/12:30 Central.

Jodi Harper  
Air & Waste Management Division | U.S. Environmental Protection Agency Region 7  
11201 Renner Boulevard | Lenexa, KS 66219 | 913.551.7483 | harper.jodi@epa.gov

---

**From:** Thomas, Latosha  
**Sent:** Monday, December 11, 2017 7:57 AM  
**To:** Harper, Jodi <Harper.Jodi@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Hayes, Scott <Hayes.Scott@epa.gov>  
**Cc:** Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>  
**Subject:** RE: Update: CERCLA/EPCRA Ag issues 12/5

Hi,

Yes! Can you all meet this afternoon on a call to talk about outreach/stakeholders? I'm working on a draft of the rollout/communications plan.

---

**From:** Harper, Jodi  
**Sent:** Thursday, December 07, 2017 6:15 PM  
**To:** Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Hayes, Scott <Hayes.Scott@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>  
**Cc:** Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>  
**Subject:** RE: Update: CERCLA/EPCRA Ag issues 12/5

Latosha,

Would we be able to touch base on developing the strategy? We have anxious people in our states who want information, and we are going to have to have something fairly soon with the January 22 deadline.

Thanks!  
Jodi

Jodi Harper  
Air & Waste Management Division | U.S. Environmental Protection Agency Region 7  
11201 Renner Boulevard | Lenexa, KS 66219 | 913.551.7483 | harper.jodi@epa.gov

---

**From:** Gioffre, Patricia  
**Sent:** Thursday, December 07, 2017 1:06 PM  
**To:** Hayes, Scott <Hayes.Scott@epa.gov>; Haas, Craig <Haas.Craig@epa.gov>; O'Donnell, Mary Jane <Odonnell.Maryjane@epa.gov>; Banner, Ellen <Banner.Ellen@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>; Dunn, Michael <dunn.michael@epa.gov>; Toney, Anthony <Toney.Anthony@epa.gov>; Hans, Mick <hans.mick@epa.gov>; Smith, Monica <smith.monica@epa.gov>; Atencio, Kathie <Atencio.Kathie@epa.gov>; Lawrence,

Kathryn <Lawrence.Kathryn@epa.gov>; Schulze, Chad <Schulze.Chad@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>

**Cc:** Mortensen, Ginah <mortensen.ginah@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Hull, George <Hull.George@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>; Harper, Jodi <Harper.Jodi@epa.gov>  
**Subject:** RE: Update: CERCLA/EPCRA Ag issues 12/5

I've invited our OEM's communications specialist to participate in today's call. Her name is Latosha Thomas and she is willing to work on developing a strategy to reach out to regulated stakeholders.

-----  
Patty Gioffre  
US EPA/OLEM/OEM  
202-564-1972  
202-748-7139 (cell)  
-----

[Follow OLEM on Twitter @EPALand](#)

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**From:** Hayes, Scott  
**Sent:** Thursday, December 07, 2017 10:07 AM  
**To:** Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Haas, Craig <Haas.Craig@epa.gov>; O'Donnell, Mary Jane <Odonnell.Maryjane@epa.gov>; Banner, Ellen <Banner.Ellen@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>; Dunn, Michael <dunn.michael@epa.gov>; Toney, Anthony <Toney.Anthony@epa.gov>; Hans, Mick <hans.mick@epa.gov>; Smith, Monica <smith.monica@epa.gov>; Atencio, Kathie <Atencio.Kathie@epa.gov>; Lawrence, Kathryn <Lawrence.Kathryn@epa.gov>; Schulze, Chad <Schulze.Chad@epa.gov>  
**Cc:** Mortensen, Ginah <mortensen.ginah@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Hull, George <Hull.George@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>; Harper, Jodi <Harper.Jodi@epa.gov>  
**Subject:** RE: Update: CERCLA/EPCRA Ag issues 12/5

Patty and Regional folks,

Is there any outreach anyone is doing or planning at this point?

We are getting some pressure from state agencies concerned that small producers won't know how to comply and an expectation to be more proactive with compliance assistance.

*Scott D. Hayes*  
**Chief, Chemical & Oil Release Prevention**  
**U.S. Environmental Protection Agency Region 7**  
**11201 Renner Boulevard**  
**Lenexa, Kansas 66219**  
913-551-7670 (o)  
913-645-3217 (m)

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**From:** Gioffre, Patricia

**Sent:** Tuesday, December 05, 2017 9:56 AM

**To:** Haas, Craig <Haas.Craig@epa.gov>; Brown, Deborah <Brown.Deborah@epa.gov>; Chin, William <chin.bill@epa.gov>; Gaffey, Jim <Gaffey.Jim@epa.gov>; O'Donnell, Mary Jane <Odonnell.Maryjane@epa.gov>; Peavey, Dwight <Peavey.Dwight@epa.gov>; Rascher, Chris <rascher.chris@epa.gov>; Smith, Catherine <smith.catherine@epa.gov>; Wallace, Leonard <Wallace.Len@epa.gov>; Gallagher, Shirin <Gallagher.Shirin@epa.gov>; Garcia, Terry <Garcia.Terry@epa.gov>; Hales, Bob <Hales.Bob@epa.gov>; Hartman, Bob <Hartman.Bob@epa.gov>; Leefers, Kristin <Leefers.Kristin@epa.gov>; LeGreid, Kathleen <LeGreid.Kathleen@epa.gov>; Magdangal, David <magdangal.david@epa.gov>; Mairs, Stephanie <Mairs.Stephanie@epa.gov>; McFadden, Kelly <McFadden.Kelly@epa.gov>; Meinhardt, Danielle <meinhardt.danielle@epa.gov>; Morales, Javier <Morales.Javier@epa.gov>; Phillips, Peter <Phillips.Peter@epa.gov>; Vergeront, Julie <Vergeront.Julie@epa.gov>; Williams, Erin <Williams.Erin@epa.gov>; Banner, Ellen <Banner.Ellen@epa.gov>; Dholakia, Umesh <Dholakia.Umesh@epa.gov>; Ghaffari, Mozafar <Ghaffari.Mozafar@epa.gov>; Harrington, Dwayne <Harrington.Dwayne@epa.gov>; Leung, Chao <Leung.Chao@epa.gov>; Maimone, Francesco <Maimone.Francesco@epa.gov>; Mosher, Eric <Mosher.Eric@epa.gov>; Ouedraogo, Idrissa <ouedraogo.idrissa@epa.gov>; Petty, Joel <petty.joel@epa.gov>; Regna, Jean <Regna.Jean@epa.gov>; Rivera, Carlos <Rivera.Carlos@epa.gov>; Rodriguez, Nancy <Rodriguez.Nancy@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>; Baginski, Alfred <Baginski.Alfred@epa.gov>; Beckley, Patrick <Beckley.Patrick@epa.gov>; Daniel, Kevin <Daniel.Kevin@epa.gov>; Dunn, Michael <dunn.michael@epa.gov>; Gallagher, Theresa <gallagher.theresa@epa.gov>; Garcia, Jefferie <Garcia.Jefferie@epa.gov>; Gardner, Allison <Gardner.Allison@epa.gov>; Gilley, Anne <Gilley.anne@epa.gov>; Hunt, Mary <Hunt.Mary@epa.gov>; Nilsen, Ashley <Nilsen.Ashley@epa.gov>; pandya, perry <pandya.perry@epa.gov>; Parent, Suzanne <Parent.Suzanne@epa.gov>; VanOrden, James <VanOrden.James@epa.gov>; Weiss, Cynthia <Weiss.Cynthia@epa.gov>; Welsh, Mike <Welsh.Mike@epa.gov>; Ziegler, Lauren <Ziegler.Lauren@epa.gov>; Bookman, Robert <Bookman.Robert@epa.gov>; Caplan, Robert W. <Caplan.Robert@epa.gov>; Chow, Eddie <Chow.Eddie@epa.gov>; Cobb, Brandon <cobb.brandon@epa.gov>; Crum, Lynda <Crum.Lynda@epa.gov>; Devkota, Om <devkota.om@epa.gov>; Fite, Mark <Fite.Mark@epa.gov>; Grant, Deanne <Grant.Deanne@epa.gov>; Groendyke, Todd <Groendyke.Todd@epa.gov>; Juan, Rodolfo <Juan.Rodolfo@epa.gov>; Kono, Michiko <Kono.Michiko@epa.gov>; Noles, Jordan <Noles.Jordan@epa.gov>; Nowell, Valerie <Nowell.Valerie@epa.gov>; 'Platt, Kerry' <Platt.Kerry@epa.gov>; Poole, Vinson <Poole.Vinson@epa.gov>; Refuge, Danielle <Refuge.Danielle@epa.gov>; Rouch, Ellen <Rouch.Ellen@epa.gov>; Rubini, Suzanne <Rubini.Suzanne@epa.gov>; Russo, Todd <Russo.Todd@epa.gov>; Spagg, Beverly <Spagg.Beverly@epa.gov>; Toney, Anthony <Toney.Anthony@epa.gov>; Warrilow, Phyllis <Warrilow.Phyllis@epa.gov>; Weeks, Victor <weeks.victor@epa.gov>; White, Erika <White.Erika@epa.gov>; Bezerra, Joana <bezerra.joana@epa.gov>; Chomycia, Greg <chomycia.greg@epa.gov>; Chrzaszcz, Monika <chrzaszcz.monika@epa.gov>; Entzminger, James <entzminger.james@epa.gov>; Hans, Mick <hans.mick@epa.gov>; Jager, Ginger <jager.ginger@epa.gov>; Kaiser, Steven <kaiser.steven@epa.gov>; Mayhugh, Robert <mayhugh.robert@epa.gov>; Moore, Cecilia <moore.cecilia@epa.gov>; Palomo, Silvia <palomo.silvia@epa.gov>; Riley, Ellen <riley.ellen@epa.gov>; Smith, Robert H <smith.roberth@epa.gov>; Wagner, William <wagner.william@epa.gov>; Barra, Michael <barra.michael@epa.gov>; Clay, Jeffrey <clay.jeffrey@epa.gov>; Ford, Debbie <Ford.Debbie@epa.gov>; Foster, Althea <Foster.Althea@epa.gov>; Hodges, Angela <Hodges.Angela@epa.gov>; Howard, AshleyA <Howard.AshleyA@epa.gov>; Mason, Steve <mason.steve@epa.gov>; Moore, Nathaniel <Moore.Nathaniel@epa.gov>; Murdock, James <Murdock.James@epa.gov>; Pearson, Evan <Pearson.Evan@epa.gov>; Phelps, Sherronda <Phelps.Sherronda@epa.gov>; Robledo, Tony <Robledo.Tony@epa.gov>; Rogers, Elizabeth <rogers.elizabeth@epa.gov>; Smalley, Bryant <smalley.bryant@epa.gov>; Smith, Monica <smith.monica@epa.gov>; Stucky, Marie <Stucky.Marie@epa.gov>; Tates, Samuel <Tates.Samuel@epa.gov>; Thompson, Steve <thompson.steve@epa.gov>; Trawick, Matthew <Trawick.Matthew@epa.gov>; Ward, Misty <ward.misty@epa.gov>; Bieri, Britt <bieri.britt@epa.gov>; Blunk, Terri <Blunk.Terri@epa.gov>; Bosch, Raymond <Bosch.Raymond@epa.gov>; Brewer, Laura <brewer.laura@epa.gov>; Bunch, Howard <Bunch.Howard@epa.gov>; Harper, Jodi <Harper.Jodi@epa.gov>; Hayes, Scott <Hayes.Scott@epa.gov>; Hensley, Dave <Hensley.Dave@epa.gov>; Hoard, Christine <Hoard.Christine@epa.gov>; LaBoda, Sarah <LaBoda.Sarah@epa.gov>; Mills, Clarissa <mills.clarissa@epa.gov>; Ndiaye, Fatimatou <Ndiaye.Fatimatou@epa.gov>; Pessetto, Jared <Pessetto.Jared@epa.gov>; Reitz, Katherine <reitz.katherine@epa.gov>; Reitz, Patricia <Reitz.Patricia@epa.gov>; Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>; Stotts, Krystal <Stotts.Krystal@epa.gov>; 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**Cc:** Mortensen, Ginah <mortensen.ginah@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Hull, George <Hull.George@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>  
**Subject:** Update: CERCLA/EPCRA Ag issues 12/5

Now that the DC Circuit Court has delayed issuing the mandate on the CERCLA/EPCRA exemption vacatur, we have more time to update the guidance and answer the multitude of questions that have been raised. Specifically, I want to update you on our plans to revise the guidance on the website and to develop a streamlined continuous release report for farms. At the end of the email, I'll address next steps on managing initial continuous release notification emails and written reports.

#### Website revisions

EPA requested comments from the public on the website through November 24<sup>th</sup>. Thus far, EPA received emailed comments from 23 different groups/individuals. We will continue to accept comments on the site because we view it as an "evergreen" product and want to continue to strive to improve our guidance and outreach materials. As a result, we will make ongoing updates to the website and make every effort to send out timely updates as these changes are made.

We updated the website with the following two frequently asked questions/answers.

**New** Do farms that have cattle that reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?

Yes. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and aggregate the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

**New** If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?

No. For those farmers who have already made their initial continuous release notification, the farmer may wait to submit the written report until the court issues the mandate. Within 30 days of the court mandate, the farmer must submit a written report to the EPA regional office. No additional call or email to the NRC is required.

Next steps: OEM is reviewing the website comments to identify issues that require further clarification on the website. We will develop a schedule to continue to update the website. We also ask that you continue to share the questions you are getting from farmers with us so that we can address those issues as well.

# Deliberative Process / Ex. 5

That's all for now.

Best wishes!

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Patty Gioffre  
USEPA (OLEM/OEM/RID)  
1200 Pennsylvania Ave. NW (5104A)  
Washington, DC 20460  
202-564-1972  
202-748-7139 (cell)

Message

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**From:** Roache, Brendan [Roache.Brendan@epa.gov]  
**Sent:** 11/17/2017 9:03:43 PM  
**To:** Thomas, Latosha [Thomas.Latosha@epa.gov]  
**Subject:** RE: ACTION: KICD Radio re: CAFOs reporting rule

Thanks!

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**From:** Thomas, Latosha  
**Sent:** Friday, November 17, 2017 4:03 PM  
**To:** Jones, Enesta <Jones.Enesta@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>  
**Cc:** Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>  
**Subject:** RE: ACTION: KICD Radio re: CAFOs reporting rule

Hey Enesta/OLEM comms!

Here are our responses. Thanks!

**Reporter:** George Bower  
**Outlet:** KICD Radio in Spencer, Iowa  
**DDL:** 5 p.m. on 11/17

**Questions:**

**1) How is the new regulation different than what has been in place?**

**EPA has not issued a new regulation.** On December 18, 2008, EPA published a final rule that exempted most farms from reporting requirements for releases of hazardous substances from animal waste to the air. After that December 2008 rulemaking, only large concentrated animal feeding operations (CAFOs) were still required to report releases of hazardous substances from animal waste to the air (under the Emergency Planning and Community Right to Know Act).

A number of citizen groups challenged the validity of EPA's December 2008 final rule in the U.S. Court of Appeals for the District of Columbia Circuit. On April 11, 2017, the Court struck down the final rule, eliminating the reporting exemptions for farms. EPA sought additional time from the Court to delay the effective date so that EPA could develop guidance materials to help farmers understand their reporting obligations. This preliminary guidance is available on the EPA website at:

<https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

**No reporting is required until the Court issues its order, or mandate, enforcing the April 11, 2017, decision.** EPA will update the guidance on the EPA website to provide farmers with notice of when the

U.S. Court of Appeals for D.C. Circuit issues its mandate and reporting requirements begin. Once the Court issues its mandate, farms should submit an initial continuous release notification to the National Response Center (NRC) for qualifying releases that occur within a 24-hour period.

## 2) How does a farmer know when there's a problem? (Monitoring equipment?)

EPA recognizes that it will be challenging for farmers to report releases from animal wastes because there is no generally accepted methodology for estimating emission quantities at this time. The regulations allow “continuous releases” to be reported in ranges. EPA understands that farmers may need to report their releases in broad ranges that reflect the high degree of uncertainty and variability of these releases. Resources that may assist farmers in estimating emissions can be found on EPA’s website at: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms#Resources>.

## 3) What is the process of reporting?

If a farm has air releases of hazardous substances from animal wastes that are equal to or greater than their reportable quantities (RQs) within any 24-hour period, the farm may follow a streamlined reporting process known as “continuous release reporting.” This requires the facility owner or operator to notify the NRC.

For the purposes of the initial continuous release notification, farmers are encouraged to send the notification by email to the NRC at: [NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil)

In order to qualify as a continuous release notification, please note in the subject line of the e-mail that this is an **“initial continuous release notification.”**

Include the following in your email ([NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil)):

- Name of the farm;
- Location of the farm (e.g., name of city/town and state);
- Name(s) of the hazardous substance(s) released

You can submit information for multiple facilities (i.e., farms) in one email ([NRC-CERCLA-EPCRA-REPORT@uscg.mil](mailto:NRC-CERCLA-EPCRA-REPORT@uscg.mil)).

Farmers will receive an automatic response email from the NRC with a single identification number (CR-ERNS) for the farm(s). The CR-ERNS number should be included on the follow-up written notification report that goes to the farmer’s EPA Regional Office. The single CR-ERNS number provided should be used for each facility included in the email.

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

## 4) And then what? Inspection? Clean-Up? Corrective action to avoid future incidents?

After farmers provide an initial notification by e-mail or phone call to the National Response Center, there are two additional steps:

**An initial written notification to the [EPA Regional Office](#).**

***Within 30 days of the e-mail or call to the NRC***, farmers should submit an initial written notification to the EPA Regional Office (<https://www.epa.gov/epcra/cr-erns-regional-contacts>) for the area where the release occurs. Note: Unlike the initial continuous release notification, each facility needs to submit a separate continuous release reporting form.

Farms can use the continuous release reporting form (<https://www.epa.gov/epcra/appendix-b-reporting-requirements-continuous-releases-hazardous-substances>) to provide this initial written notification to the EPA Regional Office. *Please note that this continuous release form is intended for multiple sectors and provides directions to send information to the EPA Regional Offices and to LEPCs and SERCs. Farms not reporting under EPCRA should not send information to the LEPCs and SERCs.*

EPA is developing a streamlined continuous release reporting form for farm facility owners and operators and plans to make this form available once it is finalized.

**A one-time first anniversary follow-up report to the EPA Regional Office.**

***Within 30 days of the first anniversary date of the initial written notification*** (i.e., the first continuous release report), the person in charge of the farm must submit a one-time anniversary report to the EPA Regional Office. The farm owner/operator must verify and update the information initially submitted for each of the hazardous substances reported to the NRC and to the EPA Regional Office. This follow-up report should be re-certified by the person in charge of the farm.

EPA's guide Reporting Requirements for Continuous Releases of Hazardous Substances includes forms to assist farmers with developing written reports. The guide provides an overview of the information required for the initial and first anniversary follow-up reports.

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**From:** Thomas, Latosha  
**Sent:** Friday, November 17, 2017 10:13 AM  
**To:** Jones, Enesta <[Jones.Enesta@epa.gov](mailto:Jones.Enesta@epa.gov)>; Colip, Matthew <[colip.matthew@epa.gov](mailto:colip.matthew@epa.gov)>; Cohen, Nancy <[Cohen.Nancy@epa.gov](mailto:Cohen.Nancy@epa.gov)>; Benjamin, Kent <[Benjamin.Kent@epa.gov](mailto:Benjamin.Kent@epa.gov)>  
**Subject:** RE: ACTION: KICD Radio re: CAFOs reporting rule

On it! Thanks, Enesta!

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**From:** Jones, Enesta  
**Sent:** Friday, November 17, 2017 10:12 AM  
**To:** Colip, Matthew <[colip.matthew@epa.gov](mailto:colip.matthew@epa.gov)>; Cohen, Nancy <[Cohen.Nancy@epa.gov](mailto:Cohen.Nancy@epa.gov)>; Benjamin, Kent <[Benjamin.Kent@epa.gov](mailto:Benjamin.Kent@epa.gov)>; Thomas, Latosha <[Thomas.Latosha@epa.gov](mailto:Thomas.Latosha@epa.gov)>  
**Cc:** Jones, Enesta <[Jones.Enesta@epa.gov](mailto:Jones.Enesta@epa.gov)>  
**Subject:** ACTION: KICD Radio re: CAFOs reporting rule

Good day!

**Reporter:** George Bower  
**Outlet:** KICD Radio in Spencer, Iowa  
**DDL:** 5 p.m. on 11/17

**Questions:**

- 1) How is the new regulation different than what has been in place?
- 2) How does a farmer know when there's a problem? (Monitoring equipment?)
- 3) What is the process of reporting?
- 4) And then what? Inspection? Clean-Up? Corrective action to avoid future incidents?

**From:** Jones, Enesta [Jones.Enesta@epa.gov]  
**Sent:** 12/12/2017 10:16:31 PM  
**To:** Thomas, Latosha [Thomas.Latosha@epa.gov]  
**Subject:** FINAL RESPONSES: Capital Press re: farm emissions calculations

**Sent to the reporter.**

**Question 1: Does the EPA plan to provide more guidance, such as providing of how many cows, pigs or chickens it takes to reach the reporting threshold?**

**Response 1:** Accurately estimating air emissions from animal waste for each species of animal (cow, pig or chicken) based on the number of animals alone is not possible. This is because the emissions vary by age, size and sex for each species. Some livestock operations may have both sexes, and varying sizes and ages of a particular species. The reporting threshold would apply to the aggregate emissions from all the farm operations involving these animals' waste. There are also other factors that affect estimates of emissions from animal waste, including operating conditions (e.g., housing/confinement type); management practices (e.g., feed, manure); and geographic location and environmental conditions (e.g., precipitation, humidity, temperature, wind conditions, terrain).

EPA will revise guidance on its webpage (<https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>), as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations.

**Question 2: Will the EPA say the rule applies to farms of a certain size and doesn't apply to others?**

**Response 2:** No. The CERCLA section 103 reporting requirements are based on whether a reportable quantity of hazardous substance is released from the farm site and is not based on farm size.

**Question 3: The EPA came up with an estimate of number of farms affected. How did it come up with that number?**

**Response 3:** To determine the number of farms that may be affected, EPA used the estimates from the December 2008 final rule.



Message

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**From:** Roache, Brendan [Roache.Brendan@epa.gov]  
**Sent:** 11/30/2017 7:48:48 PM  
**To:** Thomas, Latosha [Thomas.Latosha@epa.gov]  
**Subject:** FW: CERCLA/EPCRA Animal Waste Webpage Changes Needed Today

FYI...

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**From:** Colip, Matthew  
**Sent:** Thursday, November 30, 2017 2:30 PM  
**To:** Mayer, Eileen <Mayer.Eileen@epa.gov>  
**Cc:** Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>  
**Subject:** RE: CERCLA/EPCRA Animal Waste Webpage Changes Needed Today

Eileen,

See edit from Barry highlighted below and let me know if OEM is OK with that revision. I'll get back to you as soon as I receive the OK to post.

Thanks – Matt

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**From:** Mayer, Eileen  
**Sent:** Thursday, November 30, 2017 11:33 AM  
**To:** Colip, Matthew <colip.matthew@epa.gov>  
**Cc:** Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <jennings.kim@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>  
**Subject:** CERCLA/EPCRA Animal Waste Webpage Changes Needed Today  
**Importance:** High

Hi Matt,

We need to make the following text revisions to the CERCLA/EPCRA Animal Waste website today. These changes add 2 new Q&As, and revise the red attention box. These have been reviewed by OGC.

Add the following two Q/As on the site. Highlight them as new. At the top of the page, we will add a note that says we have added two Q/As with today's date.

Q. Do farms that have cattle reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA section 103?

**Deliberative Process / Ex. 5**

Q. If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?

**Deliberative Process / Ex. 5**

# **Deliberative Process / Ex. 5**

Also, NRC suggested the following revision to our language in the red attention box (see red language):

# **Deliberative Process / Ex. 5**